

Senate Study Bill 3136 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED MENTAL HEALTH AND
DISABILITY SERVICES STUDY
COMMITTEE BILL)

A BILL FOR

1 An Act relating to terminology changes in Iowa Code references
2 to mental retardation.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 4.1, Code 2011, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 12A. "*Intellectual disability*" means
4 a disability of children and adults who as a result of
5 inadequately developed intelligence have a significant
6 impairment in ability to learn or to adapt to the demands
7 of society, and, if a diagnosis is required, "*intellectual*
8 *disability*" means a diagnosis of mental retardation as defined
9 in the diagnostic and statistical manual of mental disorders,
10 fourth edition, text revised, published by the American
11 psychiatric association.

12 Sec. 2. Section 4.1, subsection 21A, Code 2011, is amended
13 to read as follows:

14 21A. *Persons with mental illness.* The words "*persons*
15 *with mental illness*" include persons with psychosis, persons
16 who are severely depressed, and persons with any type of
17 mental disease or mental disorder, except that mental illness
18 does not refer to ~~mental retardation as defined in section~~
19 ~~222.2~~ intellectual disability, or to insanity, diminished
20 responsibility, or mental incompetency as defined and used in
21 the Iowa criminal code or in the rules of criminal procedure,
22 Iowa court rules. A person who is hospitalized or detained for
23 treatment of mental illness shall not be deemed or presumed to
24 be incompetent in the absence of a finding of incompetence made
25 pursuant to section 229.27.

26 Sec. 3. Section 8A.311, subsection 16, Code Supplement
27 2011, is amended to read as follows:

28 16. A state agency shall make every effort to purchase
29 those products produced for sale by sheltered workshops, work
30 activity centers, and other special programs funded in whole
31 or in part by public moneys that employ persons with ~~mental~~
32 ~~retardation~~ an intellectual disability or other developmental
33 disabilities or mental illness if the products meet the
34 required specifications.

35 Sec. 4. Section 23A.2, subsection 10, paragraph 1,

1 subparagraph (4), Code 2011, is amended to read as follows:

2 (4) Nothing in this paragraph shall be construed to
3 prohibit a state resource center from providing a service a
4 resident needs for compliance with accreditation standards
5 for intermediate care facilities for persons with ~~mental~~
6 ~~retardation~~ intellectual disability.

7 Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended
8 to read as follows:

9 3. "*Person who is incompetent to vote*" means a person
10 ~~described in section 222.2, subsection 5,~~ with an intellectual
11 disability who has been found to lack the mental capacity
12 to vote in a proceeding held pursuant to section 222.31 or
13 633.556.

14 Sec. 6. Section 126.16, subsection 2, Code 2011, is amended
15 to read as follows:

16 2. For the purpose of this chapter, advertising is false if
17 it represents a drug, device, or cosmetic to have any effect
18 in the diagnosis, prevention, or treatment of arthritis,
19 blood disorders, bone or joint diseases, kidney diseases or
20 disorders, cancer, diabetes, gall bladder disease or disorders,
21 heart and vascular disease, high blood pressure, diseases or
22 disorders of the ear, mental disease or ~~mental retardation~~
23 intellectual disability, degenerative neurological diseases,
24 paralysis, prostate gland disorders, conditions of the scalp
25 affecting hair loss, baldness, endocrine disorders, sexual
26 impotence, tumors, venereal diseases, varicose ulcers,
27 breast enlargement, purifying blood, metabolic disorders,
28 immune system disorders or conditions affecting the immune
29 system, extension of life expectancy, stress and tension,
30 brain stimulation or performance, the body's natural defense
31 mechanisms, blood flow, and depression. However, advertising
32 not in violation of subsection 1 is not false under this
33 subsection if it is disseminated only to members of the
34 medical, dental, or veterinary professions, or appears only
35 in the scientific periodicals of these professions, or is

1 disseminated only for the purpose of public health education by
2 persons not commercially interested, directly or indirectly,
3 in the sale of such drugs or devices. However, if the board
4 determines that an advance in medical science has made any
5 type of self-medication safe as to any of the diseases named
6 in this subsection, the board shall by rule authorize the
7 advertising of drugs having curative or therapeutic effect for
8 such disease, subject to the conditions and restrictions the
9 board deems necessary in the interests of the public health.
10 However, this subsection does not indicate that self-medication
11 for diseases other than those named in this subsection is safe
12 and efficacious.

13 Sec. 7. Section 135.63, subsection 1, Code 2011, is amended
14 to read as follows:

15 1. A new institutional health service or changed
16 institutional health service shall not be offered or developed
17 in this state without prior application to the department
18 for and receipt of a certificate of need, pursuant to this
19 division. The application shall be made upon forms furnished
20 or prescribed by the department and shall contain such
21 information as the department may require under this division.
22 The application shall be accompanied by a fee equivalent
23 to three-tenths of one percent of the anticipated cost of
24 the project with a minimum fee of six hundred dollars and a
25 maximum fee of twenty-one thousand dollars. The fee shall be
26 remitted by the department to the treasurer of state, who shall
27 place it in the general fund of the state. If an application
28 is voluntarily withdrawn within thirty calendar days after
29 submission, seventy-five percent of the application fee shall
30 be refunded; if the application is voluntarily withdrawn more
31 than thirty but within sixty days after submission, fifty
32 percent of the application fee shall be refunded; if the
33 application is withdrawn voluntarily more than sixty days
34 after submission, twenty-five percent of the application fee
35 shall be refunded. Notwithstanding the required payment of

1 an application fee under this subsection, an applicant for a
2 new institutional health service or a changed institutional
3 health service offered or developed by an intermediate care
4 facility for persons with ~~mental retardation~~ an intellectual
5 disability or an intermediate care facility for persons with
6 mental illness as defined pursuant to section 135C.1 is exempt
7 from payment of the application fee.

8 Sec. 8. Section 135.63, subsection 2, paragraphs f and p,
9 Code 2011, are amended to read as follows:

10 *f.* A residential care facility, as defined in section
11 135C.1, including a residential care facility for persons with
12 ~~mental retardation~~ an intellectual disability, notwithstanding
13 any provision in this division to the contrary.

14 *p.* The conversion of an existing number of beds by an
15 intermediate care facility for persons with ~~mental retardation~~
16 an intellectual disability to a smaller facility environment,
17 including but not limited to a community-based environment
18 which does not result in an increased number of beds,
19 notwithstanding any provision in this division to the contrary,
20 including subsection 4, if all of the following conditions
21 exist:

22 (1) The intermediate care facility for persons with ~~mental~~
23 ~~retardation~~ an intellectual disability reports the number
24 and type of beds to be converted on a form prescribed by the
25 department at least thirty days before the conversion.

26 (2) The intermediate care facility for persons with ~~mental~~
27 ~~retardation~~ an intellectual disability reports the conversion
28 of beds on its next annual report to the department.

29 Sec. 9. Section 135.63, subsection 4, unnumbered paragraph
30 1, Code 2011, is amended to read as follows:

31 A copy of the application shall be sent to the department
32 of human services at the time the application is submitted
33 to the Iowa department of public health. The department
34 shall not process applications for and the council shall not
35 consider a new or changed institutional health service for an

1 intermediate care facility for persons with ~~mental retardation~~
2 an intellectual disability unless both of the following
3 conditions are met:

4 Sec. 10. Section 135.63, subsection 4, paragraph a, Code
5 2011, is amended to read as follows:

6 a. The new or changed beds shall not result in an
7 increase in the total number of medical assistance certified
8 intermediate care facility beds for persons with ~~mental~~
9 ~~retardation~~ an intellectual disability in the state, exclusive
10 of those beds at the state resource centers or other state
11 institutions, beyond one thousand six hundred thirty-six beds.

12 Sec. 11. Section 135C.1, subsections 6, 9, and 13, Code
13 2011, are amended to read as follows:

14 6. "*Health care facility*" or "*facility*" means a residential
15 care facility, a nursing facility, an intermediate care
16 facility for persons with mental illness, or an intermediate
17 care facility for persons with ~~mental retardation~~ an
18 intellectual disability.

19 9. "*Intermediate care facility for persons with mental*
20 *retardation* an intellectual disability" means an institution
21 or distinct part of an institution with a primary purpose
22 to provide health or rehabilitative services to three or
23 more individuals, who primarily have ~~mental retardation~~ an
24 intellectual disability or a related condition and who are
25 not related to the administrator or owner within the third
26 degree of consanguinity, and which meets the requirements
27 of this chapter and federal standards for intermediate care
28 facilities for persons with ~~mental retardation~~ an intellectual
29 disability established pursuant to the federal Social Security
30 Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d, which are
31 contained in 42 C.F.R. pt. 483, subpt. D, § 410 - 480.

32 13. "*Nursing facility*" means an institution or a distinct
33 part of an institution housing three or more individuals not
34 related to the administrator or owner within the third degree
35 of consanguinity, which is primarily engaged in providing

1 health-related care and services, including rehabilitative
2 services, but which is not engaged primarily in providing
3 treatment or care for mental illness or ~~mental-retardation~~ an
4 intellectual disability, for a period exceeding twenty-four
5 consecutive hours for individuals who, because of a mental or
6 physical condition, require nursing care and other services in
7 addition to room and board.

8 Sec. 12. Section 135C.2, subsection 3, paragraphs b, c, and
9 d, Code 2011, are amended to read as follows:

10 b. The department may also establish by administrative
11 rule special classifications within the residential care
12 facility, intermediate care facility for persons with mental
13 illness, intermediate care facility for persons with ~~mental-~~
14 ~~retardation~~ an intellectual disability, or nursing facility
15 categories, for facilities intended to serve individuals who
16 have special health care problems or conditions in common.
17 Rules establishing a special classification shall define the
18 problem or condition to which the special classification is
19 relevant and establish requirements for an approved program of
20 care commensurate with the problem or condition. The rules
21 may grant special variances or considerations to facilities
22 licensed within the special classification.

23 c. The rules adopted for intermediate care facilities for
24 persons with ~~mental-retardation~~ an intellectual disability
25 shall be consistent with, but no more restrictive than, the
26 federal standards for intermediate care facilities for persons
27 with ~~mental-retardation~~ an intellectual disability established
28 pursuant to the federal Social Security Act, § 1905(c)(d),
29 as codified in 42 U.S.C. § 1396d, in effect on January 1,
30 1989. However, in order for an intermediate care facility for
31 persons with ~~mental-retardation~~ an intellectual disability
32 to be licensed, the state fire marshal must certify to the
33 department that the facility meets the applicable provisions
34 of the rules adopted for such facilities by the state fire
35 marshal. The state fire marshal's rules shall be based

1 upon such a facility's compliance with either the provisions
2 applicable to health care occupancies or residential board and
3 care occupancies of the life safety code of the national fire
4 protection association, 2000 edition. The department shall
5 adopt additional rules for intermediate care facilities for
6 persons with ~~mental-retardation~~ an intellectual disability
7 pursuant to section 135C.14, subsection 8.

8 *d.* Notwithstanding the limitations set out in this
9 subsection regarding rules for intermediate care facilities for
10 persons with ~~mental-retardation~~ an intellectual disability,
11 the department shall consider the federal interpretive
12 guidelines issued by the federal centers for Medicare and
13 Medicaid services when interpreting the department's rules
14 for intermediate care facilities for persons with ~~mental-~~
15 ~~retardation~~ an intellectual disability. This use of the
16 guidelines is not subject to the rulemaking provisions of
17 sections 17A.4 and 17A.5, but the guidelines shall be published
18 in the Iowa administrative bulletin and the Iowa administrative
19 code.

20 Sec. 13. Section 135C.2, subsection 5, unnumbered paragraph
21 1, Code 2011, is amended to read as follows:

22 The department shall establish a special classification
23 within the residential care facility category in order
24 to foster the development of residential care facilities
25 which serve persons with ~~mental-retardation~~ an intellectual
26 disability, chronic mental illness, a developmental disability,
27 or brain injury, as described under section 225C.26, and which
28 contain five or fewer residents. A facility within the special
29 classification established pursuant to this subsection is
30 exempt from the requirements of section 135.63. The department
31 shall adopt rules which are consistent with rules previously
32 developed for the waiver demonstration project pursuant to 1986
33 Iowa Acts, chapter 1246, section 206, and which include all of
34 the following provisions:

35 Sec. 14. Section 135C.2, subsection 5, paragraphs a and f,

1 Code 2011, are amended to read as follows:

2 *a.* A facility provider under the special classification must
3 comply with rules adopted by the department for the special
4 classification. However, a facility provider which has been
5 accredited by the accreditation council for services to persons
6 with ~~mental-retardation~~ an intellectual disability and other
7 developmental disabilities shall be deemed to be in compliance
8 with the rules adopted by the department.

9 *f.* The facilities licensed under this subsection shall be
10 eligible for funding utilized by other licensed residential
11 care facilities for persons with ~~mental-retardation~~ an
12 intellectual disability, or licensed residential care
13 facilities for persons with mental illness, including but not
14 limited to funding under or from the federal social services
15 block grant, the state supplementary assistance program, state
16 mental health and developmental disabilities services funds,
17 and county funding provisions.

18 Sec. 15. Section 135C.6, subsection 8, paragraphs a and b,
19 Code 2011, are amended to read as follows:

20 *a.* Residential programs providing care to not more than
21 four individuals and receiving moneys appropriated to the
22 department of human services under provisions of a federally
23 approved home and community-based services waiver for persons
24 with intellectual disabilities or other medical assistance
25 program under chapter 249A. In approving a residential program
26 under this paragraph, the department of human services shall
27 consider the geographic location of the program so as to avoid
28 an overconcentration of such programs in an area. In order
29 to be approved under this paragraph, a residential program
30 shall not be required to involve the conversion of a licensed
31 residential care facility for persons with ~~mental-retardation~~
32 an intellectual disability.

33 *b.* Not more than forty residential care facilities for
34 persons with ~~mental-retardation~~ an intellectual disability
35 that are licensed to serve not more than five individuals may

1 be authorized by the department of human services to convert
2 to operation as a residential program under the provisions
3 of a medical assistance home and community-based services
4 waiver for persons with intellectual disabilities. A converted
5 residential program operating under this paragraph is subject
6 to the conditions stated in paragraph "a" except that the
7 program shall not serve more than five individuals.

8 Sec. 16. Section 135C.6, subsection 9, Code 2011, is amended
9 to read as follows:

10 9. Contingent upon the department of human services
11 receiving federal approval, a residential program which
12 serves not more than eight individuals and is licensed as an
13 intermediate care facility for persons with ~~mental retardation~~
14 an intellectual disability may surrender the facility license
15 and continue to operate under a federally approved medical
16 assistance home and community-based services waiver for persons
17 with intellectual disabilities, if the department of human
18 services has approved a plan submitted by the residential
19 program.

20 Sec. 17. Section 135C.23, subsection 2, paragraph b, Code
21 2011, is amended to read as follows:

22 b. This section does not prohibit the admission of a
23 patient with a history of dangerous or disturbing behavior
24 to an intermediate care facility for persons with mental
25 illness, intermediate care facility for persons with ~~mental~~
26 ~~retardation~~ an intellectual disability, nursing facility, or
27 county care facility when the intermediate care facility for
28 persons with mental illness, intermediate care facility for
29 persons with ~~mental retardation~~ an intellectual disability,
30 nursing facility, or county care facility has a program which
31 has received prior approval from the department to properly
32 care for and manage the patient. An intermediate care
33 facility for persons with mental illness, intermediate care
34 facility for persons with ~~mental retardation~~ an intellectual
35 disability, nursing facility, or county care facility is

1 required to transfer or discharge a resident with dangerous or
2 disturbing behavior when the intermediate care facility for
3 persons with mental illness, intermediate care facility for
4 persons with ~~mental retardation~~ an intellectual disability,
5 nursing facility, or county care facility cannot control the
6 resident's dangerous or disturbing behavior. The department,
7 in coordination with the state mental health and disability
8 services commission created in section 225C.5, shall adopt
9 rules pursuant to chapter 17A for programs to be required
10 in intermediate care facilities for persons with mental
11 illness, intermediate care facilities for persons with ~~mental~~
12 ~~retardation~~ an intellectual disability, nursing facilities, and
13 county care facilities that admit patients or have residents
14 with histories of dangerous or disturbing behavior.

15 Sec. 18. Section 135C.25, subsection 1, Code 2011, is
16 amended to read as follows:

17 1. Each health care facility shall have a resident advocate
18 committee whose members shall be appointed by the director
19 of the department on aging or the director's designee. A
20 person shall not be appointed a member of a resident advocate
21 committee for a health care facility unless the person is a
22 resident of the service area where the facility is located.
23 The resident advocate committee for any facility caring
24 primarily for persons with mental illness, ~~mental retardation~~
25 an intellectual disability, or a developmental disability shall
26 only be appointed after consultation with the administrator
27 of the division of mental health and disability services of
28 the department of human services on the proposed appointments.
29 Recommendations to the director or the director's designee for
30 membership on resident advocate committees are encouraged from
31 any agency, organization, or individual. The administrator of
32 the facility shall not be appointed to the resident advocate
33 committee and shall not be present at committee meetings except
34 upon request of the committee.

35 Sec. 19. Section 155.1, subsection 3, Code 2011, is amended

1 to read as follows:

2 3. "*Nursing home*" means an institution or facility, or
3 part of an institution or facility, whether proprietary or
4 nonprofit, licensed as a nursing facility, but not including an
5 intermediate care facility for persons with ~~mental-retardation~~
6 an intellectual disability or an intermediate care facility
7 for persons with mental illness, defined as such for licensing
8 purposes under state law or administrative rule adopted
9 pursuant to section 135C.2, including but not limited to, a
10 nursing home owned or administered by the federal or state
11 government or an agency or political subdivision of government.

12 Sec. 20. Section 217.1, Code 2011, is amended to read as
13 follows:

14 **217.1 Programs of department.**

15 There is established a department of human services to
16 administer programs designed to improve the well-being
17 and productivity of the people of the state of Iowa. The
18 department shall concern itself with the problems of
19 human behavior, adjustment, and daily living through the
20 administration of programs of family, child, and adult
21 welfare, economic assistance including costs of medical care,
22 rehabilitation toward self-care and support, delinquency
23 prevention and control, treatment and rehabilitation of
24 juvenile offenders, care and treatment of persons with mental
25 illness or ~~mental-retardation~~ an intellectual disability, and
26 other related programs as provided by law.

27 Sec. 21. Section 218.92, Code 2011, is amended to read as
28 follows:

29 **218.92 Patients with dangerous mental disturbances.**

30 When a patient in a state resource center for persons
31 with ~~mental-retardation~~ an intellectual disability, a state
32 mental health institute, or another institution under the
33 administration of the department of human services has become
34 so mentally disturbed as to constitute a danger to self, to
35 other patients or staff of the institution, or to the public,

1 and the institution cannot provide adequate security, the
2 administrator in charge of the institution, with the consent
3 of the director of the Iowa department of corrections, may
4 order the patient to be transferred to the Iowa medical and
5 classification center, if the superintendent of the institution
6 from which the patient is to be transferred, with the support
7 of a majority of the medical staff, recommends the transfer in
8 the interest of the patient, other patients, or the public. If
9 the patient transferred was hospitalized pursuant to sections
10 229.6 to 229.15, the transfer shall be promptly reported to
11 the court that ordered the hospitalization of the patient, as
12 required by section 229.15, subsection 5. The Iowa medical
13 and classification center has the same rights, duties, and
14 responsibilities with respect to the patient as the institution
15 from which the patient was transferred had while the patient
16 was hospitalized in the institution. The cost of the transfer
17 shall be paid from the funds of the institution from which the
18 transfer is made.

19 Sec. 22. Section 222.1, Code 2011, is amended to read as
20 follows:

21 **222.1 Purpose of state resource centers.**

22 1. The Glenwood state resource center and the Woodward
23 state resource center are established and shall be maintained
24 as the state's regional resource centers for the purpose of
25 providing treatment, training, instruction, care, habilitation,
26 and support of persons with ~~mental retardation~~ an intellectual
27 disability or other disabilities in this state, and providing
28 facilities, services, and other support to the communities
29 located in the region being served by a state resource center.
30 In addition, the state resource centers are encouraged to serve
31 as a training resource for community-based program staff,
32 medical students, and other participants in professional
33 education programs. A resource center may request the approval
34 of the council on human services to change the name of the
35 resource center for use in communication with the public, in

1 signage, and in other forms of communication.

2 2. A special ~~mental retardation~~ intellectual disability
3 unit may be maintained at one of the state mental health
4 institutes for the purposes set forth in sections 222.88 to
5 222.91.

6 Sec. 23. Section 222.2, subsections 5 and 6, Code 2011, are
7 amended to read as follows:

8 5. ~~"Mental retardation" or "mentally retarded"~~ "Intellectual
9 disability" means ~~a term or terms to describe children and~~
10 ~~adults who as a result of inadequately developed intelligence~~
11 ~~are significantly impaired in ability to learn or to adapt to~~
12 ~~the demands of society~~ the same as defined in section 4.1.

13 6. "Special unit" means a special ~~mental retardation~~
14 intellectual disability unit established at a state mental
15 health institute pursuant to sections 222.88 to 222.91.

16 Sec. 24. Section 222.6, Code 2011, is amended to read as
17 follows:

18 **222.6 State districts.**

19 The administrator shall divide the state into two districts
20 in such manner that one of the resource centers shall be
21 located within each of the districts. Such districts may
22 from time to time be changed. After such districts have been
23 established, the administrator shall notify all boards of
24 supervisors, county auditors, and clerks of the district courts
25 of the action. Thereafter, unless the administrator otherwise
26 orders, all admissions or commitments of persons with ~~mental~~
27 ~~retardation~~ an intellectual disability from a district shall be
28 to the resource center located within such district.

29 Sec. 25. Section 222.9, Code 2011, is amended to read as
30 follows:

31 **222.9 Unauthorized departures.**

32 If any person with ~~mental retardation~~ an intellectual
33 disability shall depart without proper authorization from a
34 resource center or a special unit, it shall be the duty of the
35 superintendent and the superintendent's assistants and all

1 peace officers of any county in which such patient may be found
2 to take and detain the patient without a warrant or order and
3 to immediately report such detention to the superintendent who
4 shall immediately provide for the return of such patient to the
5 resource center or special unit.

6 Sec. 26. Section 222.10, Code 2011, is amended to read as
7 follows:

8 **222.10 Duty of peace officer.**

9 When any person with ~~mental retardation~~ an intellectual
10 disability departs without proper authority from an institution
11 in another state and is found in this state, any peace officer
12 in any county in which such patient is found may take and
13 detain the patient without warrant or order and shall report
14 such detention to the administrator. The administrator shall
15 provide for the return of the patient to the authorities in the
16 state from which the unauthorized departure was made. Pending
17 return, such patient may be detained temporarily at one of the
18 institutions of this state governed by the administrator or by
19 the administrator of the division of child and family services
20 of the department of human services. The provisions of this
21 section relating to the administrator shall also apply to the
22 return of other nonresident persons with ~~mental retardation~~ an
23 intellectual disability having legal settlement outside the
24 state of Iowa.

25 Sec. 27. Section 222.12, subsections 1 and 3, Code 2011, are
26 amended to read as follows:

27 1. Upon the death of a patient of a resource center or
28 special unit, a preliminary investigation of the death shall be
29 conducted as required by section 218.64 by the county medical
30 examiner as provided in section 331.802. Such a preliminary
31 investigation shall also be conducted in the event of a sudden
32 or mysterious death of a patient in a private institution for
33 persons with ~~mental retardation~~ an intellectual disability.
34 The chief administrative officer of any private institution may
35 request an investigation of the death of any patient by the

1 county medical examiner.

2 3. The parent, guardian, or other person responsible for
3 the admission of a patient to a private institution for persons
4 with ~~mental retardation~~ an intellectual disability may also
5 request such a preliminary investigation by the county medical
6 examiner in the event of the death of the patient that is not
7 sudden or mysterious. The person or persons making the request
8 are liable for the expense of such preliminary investigation
9 and payment for the expense may be required in advance.

10 Sec. 28. Section 222.13, subsections 1 and 2, Code 2011, are
11 amended to read as follows:

12 1. If an adult person is believed to be a person with ~~mental~~
13 ~~retardation~~ an intellectual disability, the adult person or
14 the adult person's guardian may submit a request through the
15 central point of coordination process for the county board
16 of supervisors to apply to the superintendent of any state
17 resource center for the voluntary admission of the adult
18 person either as an inpatient or an outpatient of the resource
19 center. After determining the legal settlement of the adult
20 person as provided by this chapter, the board of supervisors
21 shall, on forms prescribed by the administrator, apply to the
22 superintendent of the resource center in the district for the
23 admission of the adult person to the resource center. An
24 application for admission to a special unit of any adult person
25 believed to be in need of any of the services provided by the
26 special unit under section 222.88 may be made in the same
27 manner, upon request of the adult person or the adult person's
28 guardian. The superintendent shall accept the application
29 providing a preadmission diagnostic evaluation, performed
30 through the central point of coordination process, confirms or
31 establishes the need for admission, except that an application
32 may not be accepted if the institution does not have adequate
33 facilities available or if the acceptance will result in an
34 overcrowded condition.

35 2. If the resource center has no appropriate program for the

1 treatment of an adult or minor person with ~~mental retardation~~
2 an intellectual disability applying under this section or
3 section 222.13A, the board of supervisors shall arrange for
4 the placement of the person in any public or private facility
5 within or without the state, approved by the director of the
6 department of human services, which offers appropriate services
7 for the person, as determined through the central point of
8 coordination process.

9 Sec. 29. Section 222.13A, subsections 1 and 2, Code 2011,
10 are amended to read as follows:

11 1. If a minor is believed to be a person with ~~mental~~
12 ~~retardation~~ an intellectual disability, the minor's parent,
13 guardian, or custodian may request the county board of
14 supervisors to apply for admission of the minor as a voluntary
15 patient in a state resource center. If the resource center
16 does not have appropriate services for the minor's treatment,
17 the board of supervisors may arrange for the admission of the
18 minor in a public or private facility within or without the
19 state, approved by the director of human services, which offers
20 appropriate services for the minor's treatment.

21 2. Upon receipt of an application for voluntary admission
22 of a minor, the board of supervisors shall provide for a
23 preadmission diagnostic evaluation of the minor to confirm
24 or establish the need for the admission. The preadmission
25 diagnostic evaluation shall be performed by a person who
26 meets the qualifications of a qualified ~~mental retardation~~
27 intellectual disability professional who is designated through
28 the central point of coordination process.

29 Sec. 30. Section 222.16, Code 2011, is amended to read as
30 follows:

31 **222.16 Petition for adjudication of ~~mental retardation~~**
32 **intellectual disability.**

33 A petition for the adjudication of ~~the mental retardation~~
34 of a person as having an intellectual disability within the
35 meaning of this chapter may, with the permission of the court,

1 be filed without fee against a person with the clerk of the
2 district court of the county or city in which the person who is
3 alleged to have ~~mental retardation~~ an intellectual disability
4 resides or is found. The petition may be filed by any relative
5 of the person, by a guardian, or by any reputable citizen of
6 the county where the person who is alleged to have ~~mental~~
7 ~~retardation~~ an intellectual disability resides or is found.

8 Commitment of a person pursuant to section 222.31 does not
9 constitute a finding or raise a presumption that the person
10 is incompetent to vote. The court shall make a separate
11 determination as to the person's competency to vote. The court
12 shall find a person incompetent to vote only upon determining
13 that the person lacks sufficient mental capacity to comprehend
14 and exercise the right to vote.

15 Sec. 31. Section 222.17, subsection 1, Code 2011, is amended
16 to read as follows:

17 1. Allege that such person ~~is mentally retarded~~ has an
18 intellectual disability within the meaning of this chapter.

19 Sec. 32. Section 222.18, Code 2011, is amended to read as
20 follows:

21 **222.18 County attorney to appear.**

22 The county attorney shall, if requested, appear on behalf
23 of any petitioner for the commitment of a person alleged to
24 ~~be mentally retarded~~ have an intellectual disability under
25 this chapter, and on behalf of all public officials and
26 superintendents in all matters pertaining to the duties imposed
27 upon them by this chapter.

28 Upon the filing of the petition, the court shall enter an
29 order directing the county attorney of the county in which
30 the person who is alleged to have ~~mental retardation~~ an
31 intellectual disability resides to make a full investigation
32 regarding the financial condition of that person and of those
33 persons legally liable for that person's support under section
34 222.78.

35 Sec. 33. Section 222.19, unnumbered paragraph 1, Code 2011,

1 is amended to read as follows:

2 The following persons, in addition to the person alleged to
3 ~~be mentally retarded~~ have an intellectual disability, shall be
4 made party respondents if the persons reside in this state and
5 their names and residences are known:

6 Sec. 34. Section 222.21, Code 2011, is amended to read as
7 follows:

8 **222.21 Order requiring attendance.**

9 If the person alleged to have ~~mental retardation~~ an
10 intellectual disability is not before the court, the court may
11 issue an order requiring the person who has the care, custody,
12 and control of the person who is alleged to have ~~mental~~
13 ~~retardation~~ an intellectual disability to bring the person into
14 court at the time and place stated in the order.

15 Sec. 35. Section 222.22, Code 2011, is amended to read as
16 follows:

17 **222.22 Time of appearance.**

18 The time of appearance shall not be less than five days
19 after completed service unless the court orders otherwise.
20 Appearance on behalf of the person who is alleged to have
21 ~~mental retardation~~ an intellectual disability may be made by
22 any citizen of the county or by any relative. The district
23 court shall assign counsel for the person who is alleged to
24 have ~~mental retardation~~ an intellectual disability. Counsel
25 shall prior to proceedings personally consult with the person
26 who is alleged to have ~~mental retardation~~ an intellectual
27 disability unless the judge appointing counsel certifies that
28 in the judge's opinion, consultation shall serve no useful
29 purpose. The certification shall be made a part of the record.
30 An attorney assigned by the court shall be compensated by the
31 county at an hourly rate to be established by the county board
32 of supervisors in substantially the same manner as provided in
33 section 815.7.

34 Sec. 36. Section 222.25, Code 2011, is amended to read as
35 follows:

1 **222.25 Custody pending hearing.**

2 Pending final hearing, the court may at any time after
3 the filing of the petition and on satisfactory showing that
4 it is in the best interest of the person who is alleged to
5 have ~~mental retardation~~ an intellectual disability and of the
6 community that the person be at once taken into custody, or
7 that service of notice will be ineffectual if the person is not
8 taken into custody, issue an order for the immediate production
9 of the person before the court. In such case, the court may
10 make any proper order for the custody or confinement of the
11 person as will protect the person and the community and insure
12 the presence of the person at the hearing. The person shall
13 not be confined with those accused or convicted of crime.

14 Sec. 37. Section 222.27, Code 2011, is amended to read as
15 follows:

16 **222.27 Hearing in public.**

17 Hearings shall be public, unless otherwise requested by the
18 parent, guardian, or other person having the custody of the
19 person with ~~mental retardation~~ an intellectual disability,
20 or if the judge considers, a closed hearing in the best
21 interests of the person with ~~mental retardation~~ an intellectual
22 disability.

23 Sec. 38. Section 222.28, Code 2011, is amended to read as
24 follows:

25 **222.28 Commission to examine.**

26 The court may, at or prior to the final hearing, appoint
27 a commission of one qualified physician and one qualified
28 psychologist, designated through the central point of
29 coordination process, who shall make a personal examination of
30 the person alleged to ~~be mentally retarded~~ have an intellectual
31 disability for the purpose of determining the mental condition
32 of the person.

33 Sec. 39. Section 222.31, subsection 1, unnumbered paragraph
34 1, Code 2011, is amended to read as follows:

35 If in the opinion of the court, or of a commission as

1 authorized in section 222.28, the person ~~is mentally retarded~~
2 has an intellectual disability within the meaning of this
3 chapter and the court determines that it will be conducive
4 to the welfare of that person and of the community to commit
5 the person to a proper institution for treatment, training,
6 instruction, care, habilitation, and support, and that services
7 or support provided to the family of such a person who is a
8 child will not enable the family to continue to care for the
9 child in the child's home, the court shall by proper order:

10 Sec. 40. Section 222.34, Code 2011, is amended to read as
11 follows:

12 **222.34 Guardianship proceedings.**

13 If a guardianship is proposed for a person with ~~mental~~
14 ~~retardation~~ an intellectual disability, guardianship
15 proceedings shall be initiated and conducted as provided in
16 chapter 633.

17 Sec. 41. Section 222.38, Code 2011, is amended to read as
18 follows:

19 **222.38 Delivery of person to institution, resource center, or**
20 **special unit.**

21 The court may, for the purpose of committing a person
22 direct the clerk to authorize the employment of one or
23 more assistants. If a person with ~~mental retardation~~ an
24 intellectual disability is taken to an institution, resource
25 center, or special unit, at least one attendant shall be of the
26 same sex.

27 Sec. 42. Section 222.43, subsection 1, paragraphs a, b, and
28 c, Code 2011, are amended to read as follows:

29 a. That the person adjudged to be ~~mentally retarded~~ is not
30 mentally retarded have an intellectual disability does not have
31 an intellectual disability.

32 b. That the person adjudged to be ~~mentally retarded~~ have an
33 intellectual disability has improved as to be capable of self
34 care self-care.

35 c. That the relatives or friends of the person with ~~mental~~

1 ~~retardation~~ an intellectual disability are able and willing
2 to support and care for the person with ~~mental-retardation~~ an
3 intellectual disability and request the person's discharge,
4 and in the judgment of the superintendent of the institution
5 or resource center having charge of the person, no harmful
6 consequences are likely to follow such discharge.

7 Sec. 43. Section 222.45, Code 2011, is amended to read as
8 follows:

9 **222.45 Power of court.**

10 On the hearing, the court may discharge the person with
11 ~~mental-retardation~~ an intellectual disability from all
12 supervision, control, and care, or may transfer the person
13 from a public institution to a private institution, or vice
14 versa, or transfer the person from a special unit to a resource
15 center, or vice versa, as the court deems appropriate under
16 all the circumstances. If the person has been determined to
17 lack the mental capacity to vote, the court shall include in
18 its order a finding that this determination remains in force
19 or is revoked.

20 Sec. 44. Section 222.47, Code 2011, is amended to read as
21 follows:

22 **222.47 Penalty for false petition of commitment.**

23 Any person who shall maliciously seek to have any person
24 adjudged ~~mentally-retarded~~ as a person with an intellectual
25 disability, knowing that such person is ~~not mentally-retarded~~
26 does not have an intellectual disability, shall be guilty of
27 a fraudulent practice.

28 Sec. 45. Section 222.49, Code 2011, is amended to read as
29 follows:

30 **222.49 Costs paid.**

31 The costs of proceedings shall be defrayed from the county
32 treasury unless otherwise ordered by the court. When the
33 person alleged to be ~~mentally-retarded~~ have an intellectual
34 disability is found not to be ~~mentally-retarded~~ have an
35 intellectual disability, the court shall render judgment for

1 such costs against the person filing the petition except when
2 the petition is filed by order of court.

3 Sec. 46. Section 222.50, Code 2011, is amended to read as
4 follows:

5 **222.50 County of legal settlement to pay.**

6 When the proceedings are instituted in a county in which
7 the person who is alleged to have ~~mental retardation~~ an
8 intellectual disability was found but which is not the county
9 of legal settlement of the person, and the costs are not taxed
10 to the petitioner, the county which is the legal settlement of
11 the person shall, on presentation of a properly itemized bill
12 for such costs, repay the costs to the former county. When the
13 person's legal settlement is outside the state or is unknown,
14 the costs shall be paid out of money in the state treasury not
15 otherwise appropriated, itemized on vouchers executed by the
16 auditor of the county which paid the costs, and approved by the
17 administrator.

18 Sec. 47. Section 222.51, Code 2011, is amended to read as
19 follows:

20 **222.51 Costs collected.**

21 Costs incident to the hearings and commitment of a
22 person with ~~mental retardation~~ an intellectual disability
23 to an institution, a resource center, or a special unit
24 may be collected from the person with ~~mental retardation~~ an
25 intellectual disability and from all persons legally chargeable
26 with the support of the person with ~~mental retardation~~ an
27 intellectual disability.

28 Sec. 48. Section 222.52, Code 2011, is amended to read as
29 follows:

30 **222.52 Proceedings against delinquent — hearing on**
31 **~~retardation~~ intellectual disability.**

32 When in proceedings against an alleged delinquent or
33 dependent child, the court is satisfied from any evidence that
34 such child ~~is mentally retarded~~ has an intellectual disability,
35 the court may order a continuance of such proceeding, and may

1 direct an officer of the court or some other proper person
2 to file a petition against such child permitted under the
3 provisions of this chapter. Pending hearing of the petition
4 the court may by order provide proper custody for the child.

5 Sec. 49. Section 222.53, Code 2011, is amended to read as
6 follows:

7 **222.53 Conviction — suspension.**

8 If on the conviction in the district court of any person
9 for any crime or for any violation of any municipal ordinance,
10 or if on the determination in ~~said courts~~ the court that a
11 child is dependent, neglected, or delinquent and it appears
12 from any evidence presented to the court before sentence,
13 that such person ~~is mentally retarded~~ has an intellectual
14 disability within the meaning of this chapter, the court may
15 suspend sentence or order, and may order any officer of the
16 court or some other proper person to file a petition permitted
17 under the provisions of this chapter against ~~said~~ such person.
18 Pending hearing of the petition, the court shall provide for
19 the custody of ~~said~~ such person as directed in section 222.52.

20 Sec. 50. Section 222.54, Code 2011, is amended to read as
21 follows:

22 **222.54 Procedure after hearing.**

23 Should it be found under sections 222.52 and 222.53 that
24 ~~said such person is not mentally retarded~~ does not have an
25 intellectual disability, the court shall proceed with the
26 original proceedings as though no petition had been filed.

27 Sec. 51. Section 222.56, Code 2011, is amended to read as
28 follows:

29 **222.56 Transfer to institution for persons with mental**
30 **~~retardation~~ an intellectual disability.**

31 When the mental condition of a person in a private
32 institution for persons with mental illness is found to be such
33 that the patient should be transferred to an institution for
34 persons with ~~mental retardation~~ an intellectual disability, the
35 person may be proceeded against under this chapter.

1 Sec. 52. Section 222.58, Code 2011, is amended to read as
2 follows:

3 **222.58 Administrator to keep record.**

4 The administrator shall keep a record of all persons
5 adjudged to ~~be mentally retarded~~ have an intellectual
6 disability and of the orders respecting such persons by the
7 courts throughout the state. Copies of such orders shall be
8 furnished by the clerk of the court without the administrator's
9 application therefor.

10 Sec. 53. Section 222.60, subsection 1, unnumbered paragraph
11 1, Code 2011, is amended to read as follows:

12 All necessary and legal expenses for the cost of admission or
13 commitment or for the treatment, training, instruction, care,
14 habilitation, support and transportation of persons with ~~mental~~
15 ~~retardation~~ an intellectual disability, as provided for in
16 the county management plan provisions implemented pursuant to
17 section 331.439, subsection 1, in a state resource center, or
18 in a special unit, or any public or private facility within or
19 without the state, approved by the director of the department
20 of human services, shall be paid by either:

21 Sec. 54. Section 222.60, subsection 2, paragraph a, Code
22 2011, is amended to read as follows:

23 a. Prior to a county of legal settlement approving the
24 payment of expenses for a person under this section, the county
25 may require that the person be diagnosed to determine if the
26 person has ~~mental retardation~~ an intellectual disability or
27 that the person be evaluated to determine the appropriate level
28 of services required to meet the person's needs relating to
29 ~~mental retardation~~ an intellectual disability. The diagnosis
30 and the evaluation may be performed concurrently and shall
31 be performed by an individual or individuals approved by the
32 county who are qualified to perform the diagnosis or the
33 evaluation. Following the initial approval for payment of
34 expenses, the county of legal settlement may require that an
35 evaluation be performed at reasonable time periods.

1 Sec. 55. Section 222.60, subsection 3, Code 2011, is amended
2 to read as follows:

3 3. *a.* A diagnosis of ~~mental-retardation~~ an intellectual
4 disability under this section shall be made only when the onset
5 of the person's condition was prior to the age of eighteen
6 years and shall be based on an assessment of the person's
7 intellectual functioning and level of adaptive skills. The
8 diagnosis shall be made by an individual who is a psychologist
9 or psychiatrist who is professionally trained to administer
10 the tests required to assess intellectual functioning and to
11 evaluate a person's adaptive skills.

12 *b.* A diagnosis of ~~mental-retardation~~ an intellectual
13 disability shall be made in accordance with the criteria
14 provided in the diagnostic and statistical manual of
15 mental disorders, ~~fourth-edition,~~ published by the American
16 psychiatric association, as provided in the definition of
17 intellectual disability in section 4.1.

18 Sec. 56. Section 222.66, Code 2011, is amended to read as
19 follows:

20 **222.66 Transfers — expenses.**

21 The transfer to a resource center or a special unit or to the
22 place of legal settlement of a person with ~~mental-retardation~~
23 an intellectual disability who has no legal settlement in this
24 state or whose legal settlement is unknown, shall be made
25 in accordance with such directions as shall be prescribed
26 by the administrator and when practicable by employees of
27 the state resource center or the special unit. The actual
28 and necessary expenses of such transfers shall be paid on
29 itemized vouchers sworn to by the claimants and approved by
30 the administrator from any funds in the state treasury not
31 otherwise appropriated.

32 Sec. 57. Section 222.78, Code 2011, is amended to read as
33 follows:

34 **222.78 Parents and others liable for support.**

35 The father and mother of any patient admitted or committed to

1 a resource center or to a special unit, as either an inpatient
2 or an outpatient, and any person, firm, or corporation bound
3 by contract made for support of the patient are liable for the
4 support of the patient. The patient and those legally bound
5 for the support of the patient shall be liable to the county
6 for all sums advanced by the county to the state under the
7 provisions of sections 222.60 and 222.77. The liability of
8 any person, other than the patient, who is legally bound for
9 the support of a patient who is under eighteen years of age
10 in a resource center or a special unit shall not exceed the
11 average minimum cost of the care of a normally intelligent
12 minor without a disability of the same age and sex as the
13 minor patient. The administrator shall establish the scale
14 for this purpose but the scale shall not exceed the standards
15 for personal allowances established by the state division
16 under the family investment program. The father or mother
17 shall incur liability only during any period when the father
18 or mother either individually or jointly receive a net income
19 from whatever source, commensurate with that upon which they
20 would be liable to make an income tax payment to this state.
21 The father or mother of a patient shall not be liable for the
22 support of the patient upon the patient attaining eighteen
23 years of age. Nothing in this section shall be construed to
24 prevent a relative or other person from voluntarily paying
25 the full actual cost as established by the administrator for
26 caring for the patient with ~~mental-retardation~~ an intellectual
27 disability.

28 Sec. 58. Section 222.80, Code 2011, is amended to read as
29 follows:

30 **222.80 Liability to county.**

31 A person admitted or committed to a county institution
32 or home or admitted or committed at county expense to a
33 private hospital, sanitarium, or other facility for treatment,
34 training, instruction, care, habilitation, and support as a
35 patient with ~~mental-retardation~~ an intellectual disability

1 shall be liable to the county for the reasonable cost of the
2 support as provided in section 222.78.

3 Sec. 59. Section 222.88, Code 2011, is amended to read as
4 follows:

5 **222.88 ~~Special mental retardation~~ intellectual disability**
6 **unit.**

7 The director of human services may organize and establish a
8 special ~~mental retardation~~ intellectual disability unit at an
9 existing institution which may provide:

10 1. Psychiatric and related services to children with ~~mental~~
11 ~~retardation~~ an intellectual disability and adults who are also
12 emotionally disturbed or otherwise mentally ill.

13 2. Specific programs to meet the needs of such other special
14 categories of persons with ~~mental retardation~~ an intellectual
15 disability as may be designated by the director.

16 3. Appropriate diagnostic evaluation services.

17 Sec. 60. Section 225C.1, subsection 1, Code 2011, is amended
18 to read as follows:

19 1. The general assembly finds that services to persons with
20 mental illness, ~~mental retardation~~ an intellectual disability,
21 developmental disabilities, or brain injury are provided in
22 many parts of the state by highly autonomous community-based
23 service providers working cooperatively with state and county
24 officials. However, the general assembly recognizes that
25 heavy reliance on property tax funding for mental health and
26 ~~mental retardation~~ an intellectual disability services has
27 enabled many counties to exceed minimum state standards for the
28 services resulting in an uneven level of services around the
29 state. Consequently, greater efforts should be made to assure
30 close coordination and continuity of care for those persons
31 receiving publicly supported disability services in Iowa. It
32 is the purpose of this chapter to continue and to strengthen
33 the services to persons with disabilities now available in
34 the state of Iowa, to make disability services conveniently
35 available to all persons in this state upon a reasonably

1 uniform financial basis, and to assure the continued high
2 quality of these services.

3 Sec. 61. Section 225C.2, subsections 6 and 8, Code 2011, are
4 amended to read as follows:

5 6. "*Disability services*" means services and other support
6 available to a person with mental illness, ~~mental-retardation~~
7 an intellectual disability or other developmental disability,
8 or brain injury.

9 8. "*Person with a disability*" means a person with mental
10 illness, ~~mental-retardation~~ an intellectual disability or other
11 developmental disability, or brain injury.

12 Sec. 62. Section 225C.3, subsections 1 and 3, Code 2011, are
13 amended to read as follows:

14 1. The division is designated the state mental health
15 authority as defined in 42 U.S.C. § 201(m) (1976) for the
16 purpose of directing the benefits of the National Mental
17 Health Act, 42 U.S.C. § 201 et seq. This designation does not
18 preclude the board of regents from authorizing or directing any
19 institution under its jurisdiction to carry out educational,
20 prevention, and research activities in the areas of mental
21 health and ~~mental-retardation~~ intellectual disability. The
22 division may contract with the board of regents or any
23 institution under the board's jurisdiction to perform any of
24 these functions.

25 3. The division is administered by the administrator.
26 The administrator of the division shall be qualified in the
27 general field of mental health, ~~mental-retardation~~ intellectual
28 disability, or other disability services, and preferably in
29 more than one field. The administrator shall have at least
30 five years of experience as an administrator in one or more of
31 these fields.

32 Sec. 63. Section 225C.4, subsection 1, paragraphs a, c, g,
33 and q, Code 2011, are amended to read as follows:

34 a. Prepare and administer the comprehensive mental
35 health and disability services plan as provided in section

1 225C.6B, including state mental health and ~~mental-retardation~~
2 intellectual disability plans for the provision of disability
3 services within the state and the state developmental
4 disabilities plan. The administrator shall consult with the
5 Iowa department of public health, the state board of regents or
6 a body designated by the board for that purpose, the department
7 of management or a body designated by the director of the
8 department for that purpose, the department of education, the
9 department of workforce development and any other appropriate
10 governmental body, in order to facilitate coordination of
11 disability services provided in this state. The state mental
12 health and ~~mental-retardation~~ intellectual disability plans
13 shall be consistent with the state health plan, and shall
14 incorporate county disability services plans.

15 c. Emphasize the provision of outpatient services by
16 community mental health centers and local ~~mental-retardation~~
17 intellectual disability providers as a preferable alternative
18 to inpatient hospital services.

19 g. Administer state programs regarding the care, treatment,
20 and supervision of persons with mental illness or ~~mental~~
21 ~~retardation~~ an intellectual disability, except the programs
22 administered by the state board of regents.

23 q. In cooperation with the department of inspections and
24 appeals, recommend minimum standards under section 227.4 for
25 the care of and services to persons with mental illness and
26 ~~mental-retardation~~ an intellectual disability residing in
27 county care facilities.

28 Sec. 64. Section 225C.5, subsection 1, unnumbered paragraph
29 1, Code Supplement 2011, is amended to read as follows:

30 A mental health and disability services commission is
31 created as the state policy-making body for the provision of
32 services to persons with mental illness, ~~mental-retardation~~ an
33 intellectual disability, or other developmental disabilities,
34 or brain injury. The commission's voting members shall be
35 appointed to three-year staggered terms by the governor and

1 are subject to confirmation by the senate. Commission members
2 shall be appointed on the basis of interest and experience in
3 the fields of mental health, ~~mental-retardation~~ intellectual
4 disability, or other developmental disabilities, and brain
5 injury, in a manner so as to ensure adequate representation
6 from persons with disabilities and individuals knowledgeable
7 concerning disability services. The department shall provide
8 staff support to the commission, and the commission may utilize
9 staff support and other assistance provided to the commission
10 by other persons. The commission shall meet at least four
11 times per year. The membership of the commission shall consist
12 of the following persons who, at the time of appointment to the
13 commission, are active members of the indicated groups:

14 Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are
15 amended to read as follows:

16 2. Moneys appropriated to the fund shall be allocated
17 to counties for funding of community-based mental health,
18 ~~mental-retardation~~ intellectual disability, developmental
19 disabilities, and brain injury services in the manner
20 provided in the appropriation to the fund. If the allocation
21 methodology includes a population factor, the most recent
22 population estimates issued by the United States bureau of the
23 census shall be applied.

24 4. a. A county is entitled to receive money from the
25 fund if that county raised by county levy and expended for
26 mental health, ~~mental-retardation~~ intellectual disability,
27 and developmental disabilities services, in the preceding
28 fiscal year, an amount of money at least equal to the amount so
29 raised and expended for those purposes during the fiscal year
30 beginning July 1, 1980.

31 b. With reference to the fiscal year beginning July 1, 1980,
32 money "*raised by county levy and expended for mental health,*
33 *~~mental-retardation~~ intellectual disability, and developmental*
34 *disabilities services*" means the county's maintenance of effort
35 determined by using the general allocation application for the

1 state community mental health and mental retardation services
2 fund under section 225C.10, subsection 1, Code 1993. The
3 department, with the agreement of each county, shall establish
4 the actual amount expended by each county for persons with
5 mental illness, ~~mental retardation~~ an intellectual disability,
6 or a developmental disability in the fiscal year which began
7 on July 1, 1980, and this amount shall be deemed each county's
8 maintenance of effort.

9 Sec. 66. Section 225C.12, subsection 2, Code 2011, is
10 amended to read as follows:

11 2. A county may claim reimbursement by filing with the
12 administrator a claim in a form prescribed by the administrator
13 by rule. Claims may be filed on a quarterly basis, and when
14 received shall be verified as soon as reasonably possible
15 by the administrator. The administrator shall certify to
16 the director of the department of administrative services
17 the amount to which each county claiming reimbursement is
18 entitled, and the director of the department of administrative
19 services shall issue warrants to the respective counties
20 drawn upon funds appropriated by the general assembly for
21 the purpose of this section. A county shall place funds
22 received under this section in the county mental health,
23 ~~mental retardation~~ intellectual disability, and developmental
24 disabilities services fund created under section 331.424A. If
25 the appropriation for a fiscal year is insufficient to pay
26 all claims arising under this section, the director of the
27 department of administrative services shall prorate the funds
28 appropriated for that year among the claimant counties so that
29 an equal proportion of each county's claim is paid in each
30 quarter for which proration is necessary.

31 Sec. 67. Section 225C.13, subsection 2, Code 2011, is
32 amended to read as follows:

33 2. The division administrator may work with the appropriate
34 administrator of the department's institutions to establish
35 mental health and ~~mental retardation~~ intellectual disability

1 services for all institutions under the control of the director
2 of human services and to establish an autism unit, following
3 mutual planning and consultation with the medical director of
4 the state psychiatric hospital, at an institution or a facility
5 administered by the department to provide psychiatric and
6 related services and other specific programs to meet the needs
7 of autistic persons, and to furnish appropriate diagnostic
8 evaluation services.

9 Sec. 68. Section 225C.21, subsection 1, Code 2011, is
10 amended to read as follows:

11 1. As used in this section, "*supported community living*
12 *services*" means services provided in a noninstitutional setting
13 to adult persons with mental illness, ~~mental retardation~~ an
14 intellectual disability, or developmental disabilities to meet
15 the persons' daily living needs.

16 Sec. 69. Section 225C.25, Code 2011, is amended to read as
17 follows:

18 **225C.25 Short title.**

19 Sections 225C.25 through 225C.28B shall be known as "the
20 bill of rights and service quality standards of persons with
21 ~~mental retardation~~ an intellectual disability, developmental
22 disabilities, brain injury, or chronic mental illness".

23 Sec. 70. Section 225C.26, Code 2011, is amended to read as
24 follows:

25 **225C.26 Scope.**

26 These rights and service quality standards apply to any
27 person with ~~mental retardation~~ an intellectual disability,
28 a developmental disability, brain injury, or chronic mental
29 illness who receives services which are funded in whole or in
30 part by public funds or services which are permitted under Iowa
31 law.

32 Sec. 71. Section 225C.28A, unnumbered paragraph 1, Code
33 2011, is amended to read as follows:

34 As the state participates more fully in funding services
35 and other support to persons with ~~mental retardation~~ an

1 intellectual disability, developmental disabilities, brain
2 injury, or chronic mental illness, it is the intent of the
3 general assembly that the state shall seek to attain the
4 following quality standards in the provision of the services:

5 Sec. 72. Section 225C.28B, Code 2011, is amended to read as
6 follows:

7 **225C.28B Rights of persons with ~~mental-retardation~~ an**
8 **intellectual disability, developmental disabilities, brain**
9 **injury, or chronic mental illness.**

10 All of the following rights shall apply to a person with
11 ~~mental-retardation~~ an intellectual disability, a developmental
12 disability, brain injury, or chronic mental illness:

13 1. *Wage protection.* A person with ~~mental-retardation~~ an
14 intellectual disability, a developmental disability, brain
15 injury, or chronic mental illness engaged in work programs
16 shall be paid wages commensurate with the going rate for
17 comparable work and productivity.

18 2. *Insurance protection.* Pursuant to section 507B.4,
19 subsection 7, a person or designated group of persons shall not
20 be denied insurance coverage by reason of ~~mental-retardation~~
21 an intellectual disability, a developmental disability, brain
22 injury, or chronic mental illness.

23 3. *Due process.* A person with ~~mental-retardation~~ an
24 intellectual disability, a developmental disability, brain
25 injury, or chronic mental illness retains the right to
26 citizenship in accordance with the laws of the state.

27 4. *Participation in planning activities.* If an individual
28 treatment, habilitation, and program plan is developed for a
29 person with ~~mental-retardation~~ an intellectual disability,
30 a developmental disability, brain injury, or chronic mental
31 illness, the person has the right to participate in the
32 formulation of the plan.

33 Sec. 73. Section 225C.32, Code 2011, is amended to read as
34 follows:

35 **225C.32 Plan appeals process.**

1 The department shall establish an appeals process by which a
2 mental health, ~~mental-retardation~~ intellectual disability, and
3 developmental disabilities coordinating board or an affected
4 party may appeal a decision of the department or of the
5 coordinating board.

6 Sec. 74. Section 225C.52, subsection 1, Code 2011, is
7 amended to read as follows:

8 1. Establishing a comprehensive community-based mental
9 health services system for children and youth is part of
10 fulfilling the requirements of the division and the commission
11 to facilitate a comprehensive, continuous, and integrated state
12 mental health and disability services plan in accordance with
13 sections 225C.4, 225C.6, and 225C.6A, and other provisions
14 of this chapter. The purpose of establishing the children's
15 system is to improve access for children and youth with
16 serious emotional disturbances and youth with other qualifying
17 mental health disorders to mental health treatment, services,
18 and other support in the least restrictive setting possible
19 so the children and youth can live with their families and
20 remain in their communities. The children's system is also
21 intended to meet the needs of children and youth who have
22 mental health disorders that co-occur with substance abuse,
23 ~~mental-retardation~~ intellectual disability, developmental
24 disabilities, or other disabilities. The children's system
25 shall emphasize community-level collaborative efforts between
26 children and youth and the families and the state's systems
27 of education, child welfare, juvenile justice, health care,
28 substance abuse, and mental health.

29 Sec. 75. Section 226.8, Code 2011, is amended to read as
30 follows:

31 **226.8 Persons with ~~mental-retardation~~ an intellectual**
32 **disability not receivable — exception.**

33 **No A person who is ~~mentally-retarded~~ has an intellectual**
34 **disability, as defined by in section ~~222.2~~ 4.1, shall not**
35 **be admitted, or transferred pursuant to section 222.7, to a**

1 state mental health institute unless a professional diagnostic
2 evaluation indicates that such person will benefit from
3 psychiatric treatment or from some other specific program
4 available at the mental health institute to which it is
5 proposed to admit or transfer the person. Charges for the
6 care of any person with ~~mental-retardation~~ an intellectual
7 disability admitted to a state mental health institute shall
8 be made by the institute in the manner provided by chapter
9 230, but the liability of any other person to any county for
10 the cost of care of such person with ~~mental-retardation~~ an
11 intellectual disability shall be as prescribed by section
12 222.78.

13 Sec. 76. Section 226.9C, subsection 2, paragraph a, Code
14 Supplement 2011, is amended to read as follows:

15 a. A county may split the charges between the county's
16 mental health, ~~mental-retardation~~ intellectual disability, and
17 developmental disabilities services fund created pursuant to
18 section 331.424A and the county's budget for substance abuse
19 expenditures.

20 Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011,
21 are amended to read as follows:

22 1. The director of inspections and appeals shall make,
23 or cause to be made, at least one licensure inspection each
24 year of every county care facility. Either the administrator
25 of the division or the director of inspections and appeals,
26 in cooperation with each other, upon receipt of a complaint
27 or for good cause, may make, or cause to be made, a review
28 of a county care facility or of any other private or county
29 institution where persons with mental illness or ~~mental~~
30 ~~retardation~~ an intellectual disability reside. A licensure
31 inspection or a review shall be made by a competent and
32 disinterested person who is acquainted with and interested in
33 the care of persons with mental illness and persons with ~~mental~~
34 ~~retardation~~ an intellectual disability. The objective of a
35 licensure inspection or a review shall be an evaluation of the

1 programming and treatment provided by the facility. After each
2 licensure inspection of a county care facility, the person who
3 made the inspection shall consult with the county authorities
4 on plans and practices that will improve the care given
5 patients and shall make recommendations to the administrator of
6 the division and the director of public health for coordinating
7 and improving the relationships between the administrators of
8 county care facilities, the administrator of the division, the
9 director of public health, the superintendents of state mental
10 health institutes and resource centers, community mental health
11 centers, and other cooperating agencies, to cause improved
12 and more satisfactory care of patients. A written report of
13 each licensure inspection of a county care facility under this
14 section shall be filed with the administrator of the division
15 and the director of public health and shall include:

- 16 a. The capacity of the institution for the care of
17 residents.
- 18 b. The number, sex, ages, and primary diagnoses of the
19 residents.
- 20 c. The care of residents, their food, clothing, treatment
21 plan, employment, and opportunity for recreational activities
22 and for productive work intended primarily as therapeutic
23 activity.
- 24 d. The number, job classification, sex, duties, and salaries
25 of all employees.
- 26 e. The cost to the state or county of maintaining residents
27 in a county care facility.
- 28 f. The recommendations given to and received from county
29 authorities on methods and practices that will improve the
30 conditions under which the county care facility is operated.
- 31 g. Any failure to comply with standards adopted under
32 section 227.4 for care of persons with mental illness and
33 persons with ~~mental retardation~~ an intellectual disability in
34 county care facilities, which is not covered in information
35 submitted pursuant to paragraphs "a" to "f", and any other

1 matters which the director of public health, in consultation
2 with the administrator of the division, may require.

3 2. A copy of the written report prescribed by subsection
4 1 shall be furnished to the county board of supervisors, to
5 the county mental health and ~~mental-retardation~~ intellectual
6 disability coordinating board or to its advisory board if
7 the county board of supervisors constitutes ex officio the
8 coordinating board, to the administrator of the county care
9 facility inspected and to its resident advocate committee, and
10 to the department on aging.

11 4. In addition to the licensure inspections required or
12 authorized by this section, the administrator of the division
13 shall cause to be made an evaluation of each person cared for
14 in a county care facility at least once each year by one or
15 more qualified mental health, ~~mental-retardation~~ intellectual
16 disability, or medical professionals, whichever is appropriate.

17 a. It is the responsibility of the state to secure the
18 annual evaluation for each person who is on convalescent leave
19 or who has not been discharged from a state mental health
20 institute. It is the responsibility of the county to secure
21 the annual evaluation for all other persons with mental illness
22 in the county care facility.

23 b. It is the responsibility of the state to secure the
24 annual evaluation for each person who is on leave and has
25 not been discharged from a state resource center. It is the
26 responsibility of the county to secure the annual evaluation
27 for all other persons with ~~mental-retardation~~ an intellectual
28 disability in the county care facility.

29 c. It is the responsibility of the county to secure an
30 annual evaluation of each resident of a county care facility to
31 whom neither paragraph "a" nor paragraph "b" is applicable.

32 Sec. 78. Section 227.4, Code 2011, is amended to read as
33 follows:

34 **227.4 Standards for care of persons with mental illness or**
35 **~~mental-retardation~~ an intellectual disability in county care**

1 **facilities.**

2 The administrator, in cooperation with the department of
3 inspections and appeals, shall recommend and the mental health
4 and disability services commission created in section 225C.5
5 shall adopt standards for the care of and services to persons
6 with mental illness or ~~mental-retardation~~ an intellectual
7 disability residing in county care facilities. The standards
8 shall be enforced by the department of inspections and appeals
9 as a part of the licensure inspection conducted pursuant to
10 chapter 135C. The objective of the standards is to ensure
11 that persons with mental illness or ~~mental-retardation~~ an
12 intellectual disability who are residents of county care
13 facilities are not only adequately fed, clothed, and housed,
14 but are also offered reasonable opportunities for productive
15 work and recreational activities suited to their physical and
16 mental abilities and offering both a constructive outlet for
17 their energies and, if possible, therapeutic benefit. When
18 recommending standards under this section, the administrator
19 shall designate an advisory committee representing
20 administrators of county care facilities, county mental health
21 and developmental disabilities regional planning councils, and
22 county care facility resident advocate committees to assist in
23 the establishment of standards.

24 Sec. 79. Section 227.6, Code 2011, is amended to read as
25 follows:

26 **227.6 Removal of residents.**

27 If a county care facility fails to comply with rules and
28 standards adopted under this chapter, the administrator may
29 remove all persons with mental illness and all persons with
30 ~~mental-retardation~~ an intellectual disability cared for in the
31 county care facility at public expense, to the proper state
32 mental health institute or resource center, or to some private
33 or county institution or hospital for the care of persons
34 with mental illness or ~~mental-retardation~~ an intellectual
35 disability that has complied with the rules prescribed by the

1 administrator. Residents being transferred to a state mental
2 health institute or resource center shall be accompanied by an
3 attendant or attendants sent from the institute or resource
4 center. If a resident is transferred under this section,
5 at least one attendant shall be of the same sex. If the
6 administrator finds that the needs of residents with mental
7 illness and residents with ~~mental retardation~~ an intellectual
8 disability of any other county or private institution are not
9 being adequately met, those residents may be removed from that
10 institution upon order of the administrator.

11 Sec. 80. Section 229.1, subsection 9, Code Supplement 2011,
12 is amended to read as follows:

13 9. "*Mental illness*" means every type of mental disease
14 or mental disorder, except that it does not refer to
15 ~~mental retardation~~ intellectual disability as defined in
16 section ~~222.2, subsection 5~~ 4.1, or to insanity, diminished
17 responsibility, or mental incompetency as the terms are defined
18 and used in the Iowa criminal code or in the rules of criminal
19 procedure, Iowa court rules.

20 Sec. 81. Section 229.26, Code 2011, is amended to read as
21 follows:

22 **229.26 Exclusive procedure for involuntary hospitalization.**

23 Sections 229.6 through 229.19 constitute the exclusive
24 procedure for involuntary hospitalization of persons by reason
25 of serious mental impairment in this state, except that this
26 chapter does not negate the provisions of section 904.503
27 relating to transfer of prisoners with mental illness to state
28 hospitals for persons with mental illness and does not apply
29 to commitments of persons under chapter 812 or the rules of
30 criminal procedure, Iowa court rules, or negate the provisions
31 of section 232.51 relating to disposition of children
32 with mental illness or ~~mental retardation~~ an intellectual
33 disability.

34 Sec. 82. Section 230.33, Code 2011, is amended to read as
35 follows:

1 **230.33 Reciprocal agreements.**

2 The administrator may enter into agreements with other
3 states, through their duly constituted authorities, to effect
4 the reciprocal return of persons with mental illness and
5 persons with ~~mental retardation~~ an intellectual disability
6 to the contracting states, and to effect the reciprocal
7 supervision of persons on convalescent leave.

8 Provided that in the case of a proposed transfer of
9 a person with mental illness or ~~mental retardation~~ an
10 intellectual disability from this state that no final action
11 be taken without the approval either of the commission of
12 hospitalization, or of the district court, of the county of
13 admission or commitment.

14 Sec. 83. Section 231.4, subsection 1, paragraph m, Code
15 Supplement 2011, is amended to read as follows:

16 *m.* "*Resident*" means a resident or tenant of a long-term
17 care facility, assisted living program, or elder group home,
18 excluding facilities licensed primarily to serve persons
19 with ~~mental retardation~~ an intellectual disability or mental
20 illness.

21 Sec. 84. Section 231.42, subsection 2, paragraph a, Code
22 2011, is amended to read as follows:

23 *a.* Establish and implement a statewide confidential
24 uniform reporting system for receiving, analyzing, referring,
25 investigating, and resolving complaints about administrative
26 actions and the health, safety, welfare, and rights of
27 residents or tenants of long-term care facilities, assisted
28 living programs, and elder group homes, excluding facilities
29 licensed primarily to serve persons with ~~mental retardation~~ an
30 intellectual disability or mental illness.

31 Sec. 85. Section 232.51, subsection 2, Code Supplement
32 2011, is amended to read as follows:

33 2. If the evidence received at an adjudicatory or a
34 dispositional hearing indicates that the child ~~is mentally~~
35 ~~retarded~~ has an intellectual disability, the court may direct

1 the juvenile court officer or the department to initiate
2 proceedings or to assist the child's parent or guardian to
3 initiate civil commitment proceedings in the juvenile court and
4 such proceedings shall adhere to the requirements of chapter
5 222.

6 Sec. 86. Section 232.51, subsection 3, paragraph a, Code
7 Supplement 2011, is amended to read as follows:

8 a. If prior to the adjudicatory or dispositional hearing
9 on the pending delinquency petition, the child is committed
10 as a child with a mental illness or ~~mental retardation~~ an
11 intellectual disability and is ordered into a residential
12 facility, institution, or hospital for inpatient treatment,
13 the delinquency proceeding shall be suspended until such time
14 as the juvenile court either terminates the civil commitment
15 order or the child is released from the residential facility,
16 institution, or hospital for purposes of receiving outpatient
17 treatment.

18 Sec. 87. Section 232.175, Code 2011, is amended to read as
19 follows:

20 **232.175 Placement oversight.**

21 Placement oversight shall be provided pursuant to this
22 division when the parent, guardian, or custodian of a child
23 with ~~mental retardation~~ an intellectual disability or other
24 developmental disability requests placement of the child
25 in foster family care for a period of more than thirty
26 days. The oversight shall be provided through review of
27 the placement every six months by the department's foster
28 care review committees or by a local citizen foster care
29 review board. Court oversight shall be provided prior to the
30 initial placement and at periodic intervals which shall not
31 exceed twelve months. It is the purpose and policy of this
32 division to assure the existence of oversight safeguards as
33 required by the federal Child Welfare Act of 1980, Pub. L. No.
34 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B),
35 and 675(1),(5), while maintaining parental decision-making

1 authority.

2 Sec. 88. Section 232.178, subsection 4, Code 2011, is
3 amended to read as follows:

4 4. The petition shall describe the child's emotional,
5 physical, or intellectual disability which requires care and
6 treatment; the reasonable efforts to maintain the child in
7 the child's home; the department's request to the family of
8 a child with ~~mental retardation~~ an intellectual disability,
9 other developmental disability, or organic mental illness to
10 determine if any services or support provided to the family
11 will enable the family to continue to care for the child in the
12 child's home; and the reason the child's parent, guardian, or
13 custodian has requested a foster family care placement. The
14 petition shall also describe the commitment of the parent,
15 guardian, or custodian in fulfilling the responsibilities
16 defined in the case permanency plan and how the placement will
17 serve the child's best interests.

18 Sec. 89. Section 232.182, subsection 5, paragraph a,
19 subparagraph (4), Code 2011, is amended to read as follows:

20 (4) A determination that services or support provided to
21 the family of a child with ~~mental retardation~~ an intellectual
22 disability, other developmental disability, or organic mental
23 illness will not enable the family to continue to care for the
24 child in the child's home.

25 Sec. 90. Section 233A.14, Code 2011, is amended to read as
26 follows:

27 **233A.14 Transfers to other institutions.**

28 The administrator may transfer to the schools minor wards of
29 the state from any institution under the administrator's charge
30 but no person shall be so transferred who is mentally ill or
31 ~~mentally retarded~~ has an intellectual disability. Any child
32 in the schools who is mentally ill or ~~mentally retarded~~ has an
33 intellectual disability may be transferred by the administrator
34 to the proper state institution.

35 Sec. 91. Section 233B.5, Code 2011, is amended to read as

1 follows:

2 **233B.5 Transfers.**

3 The administrator may transfer to the home minor wards of the
4 state from any institution under the administrator's charge or
5 under the charge of any other administrator of the department
6 of human services; but no person shall be so transferred who
7 is a person with mental illness or ~~mental-retardation~~ an
8 intellectual disability, or who is incorrigible, or has any
9 vicious habits, or whose presence in the home would be inimical
10 to the moral or physical welfare of the other children within
11 the home, and any such child in the home may be transferred to
12 the proper state institution.

13 Sec. 92. Section 234.6, subsection 6, paragraph f, Code
14 2011, is amended to read as follows:

15 f. Services or support provided to a child with ~~mental-~~
16 ~~retardation~~ an intellectual disability or other developmental
17 disability or to the child's family.

18 Sec. 93. Section 235.1, subsection 3, Code 2011, is amended
19 to read as follows:

20 3. "*Child welfare services*" means social welfare services
21 for the protection and care of children who are homeless,
22 dependent or neglected, or in danger of becoming delinquent, or
23 who have a mental illness or ~~mental-retardation~~ an intellectual
24 disability or other developmental disability, including, when
25 necessary, care and maintenance in a foster care facility.
26 Child welfare services are designed to serve a child in the
27 child's home whenever possible. If not possible, and the child
28 is placed outside the child's home, the placement should be in
29 the least restrictive setting available and in close proximity
30 to the child's home.

31 Sec. 94. Section 235A.15, subsection 2, paragraph c,
32 subparagraph (9), Code Supplement 2011, is amended to read as
33 follows:

34 (9) To the administrator of an agency providing mental
35 health, ~~mental-retardation~~ intellectual disability, or

1 developmental disability services under a county management
2 plan developed pursuant to section 331.439, if the data
3 concerns a person employed by or being considered by the agency
4 for employment.

5 Sec. 95. Section 235B.6, subsection 2, paragraph c,
6 subparagraph (6), Code Supplement 2011, is amended to read as
7 follows:

8 (6) To the administrator of an agency providing mental
9 health, ~~mental-retardation~~ intellectual disability, or
10 developmental disability services under a county management
11 plan developed pursuant to section 331.439, if the information
12 concerns a person employed by or being considered by the agency
13 for employment.

14 Sec. 96. Section 249A.2, subsection 4, Code 2011, is amended
15 to read as follows:

16 4. "*Discretionary medical assistance*" means medical
17 assistance or additional medical assistance provided to
18 individuals whose income and resources are in excess of
19 eligibility limitations but are insufficient to meet all of the
20 costs of necessary medical care and services, provided that if
21 the assistance includes services in institutions for mental
22 diseases or intermediate care facilities for persons with
23 ~~mental-retardation~~ an intellectual disability, or both, for any
24 group of such individuals, the assistance also includes for
25 all covered groups of such individuals at least the care and
26 services enumerated in Tit. XIX of the federal Social Security
27 Act, section 1905(a), paragraphs (1) through (5), and (17),
28 as codified in 42 U.S.C. § 1396d(a), pars. (1) through (5),
29 and (17), or any seven of the care and services enumerated in
30 Tit. XIX of the federal Social Security Act, section 1905(a),
31 paragraphs (1) through (7) and (9) through (18), as codified in
32 42 U.S.C. § 1396d(a), pars. (1) through (7), and (9) through
33 (18).

34 Sec. 97. Section 249A.5, subsection 2, unnumbered paragraph
35 1, Code 2011, is amended to read as follows:

1 The provision of medical assistance to an individual who
2 is fifty-five years of age or older, or who is a resident of
3 a nursing facility, intermediate care facility for persons
4 with ~~mental retardation~~ an intellectual disability, or mental
5 health institute, who cannot reasonably be expected to be
6 discharged and return to the individual's home, creates a
7 debt due the department from the individual's estate for all
8 medical assistance provided on the individual's behalf, upon
9 the individual's death.

10 Sec. 98. Section 249A.5, subsection 2, paragraph f,
11 subparagraph (1), Code 2011, is amended to read as follows:

12 (1) If a debt is due under this subsection from the estate
13 of a recipient, the administrator of the nursing facility,
14 intermediate care facility for persons with ~~mental retardation~~
15 an intellectual disability, or mental health institute in which
16 the recipient resided at the time of the recipient's death, and
17 the personal representative of the recipient, if applicable,
18 shall report the death to the department within ten days of the
19 death of the recipient.

20 Sec. 99. Section 249A.12, subsection 1, Code 2011, is
21 amended to read as follows:

22 1. Assistance may be furnished under this chapter to an
23 otherwise eligible recipient who is a resident of a health
24 care facility licensed under chapter 135C and certified as an
25 intermediate care facility for persons with ~~mental retardation~~
26 an intellectual disability.

27 Sec. 100. Section 249A.12, subsection 4, paragraphs a and c,
28 Code 2011, are amended to read as follows:

29 a. Effective July 1, 1995, the state shall be responsible
30 for all of the nonfederal share of the costs of intermediate
31 care facility for persons with ~~mental retardation~~ an
32 intellectual disability services provided under medical
33 assistance to minors. Notwithstanding subsection 2 and
34 contrary provisions of section 222.73, effective July 1, 1995,
35 a county is not required to reimburse the department and shall

1 not be billed for the nonfederal share of the costs of such
2 services provided to minors.

3 *c.* Effective February 1, 2002, the state shall be
4 responsible for all of the nonfederal share of the costs of
5 intermediate care facility for persons with ~~mental-retardation~~
6 an intellectual disability services provided under medical
7 assistance attributable to the assessment fee for intermediate
8 care facilities for individuals with ~~mental-retardation~~ an
9 intellectual disability imposed pursuant to section 249A.21.
10 Notwithstanding subsection 2, effective February 1, 2003, a
11 county is not required to reimburse the department and shall
12 not be billed for the nonfederal share of the costs of such
13 services attributable to the assessment fee.

14 Sec. 101. Section 249A.12, subsection 5, Code 2011, is
15 amended to read as follows:

16 5. *a.* The mental health and disability services commission
17 shall recommend to the department the actions necessary to
18 assist in the transition of individuals being served in an
19 intermediate care facility for persons with ~~mental-retardation~~
20 an intellectual disability, who are appropriate for the
21 transition, to services funded under a medical assistance
22 home and community-based services waiver for persons with
23 intellectual disabilities in a manner which maximizes the use
24 of existing public and private facilities. The actions may
25 include but are not limited to submitting any of the following
26 or a combination of any of the following as a request for a
27 revision of the medical assistance home and community-based
28 services waiver for persons with intellectual disabilities:

29 (1) Allow for the transition of intermediate care
30 facilities for persons with ~~mental-retardation~~ an intellectual
31 disability licensed under chapter 135C, to services funded
32 under the medical assistance home and community-based services
33 waiver for persons with intellectual disabilities. The request
34 shall be for inclusion of additional persons under the waiver
35 associated with the transition.

1 (2) Allow for reimbursement under the waiver for day program
2 or other service costs.

3 (3) Allow for exception provisions in which an intermediate
4 care facility for persons with ~~mental retardation~~ an
5 intellectual disability which does not meet size and other
6 facility-related requirements under the waiver in effect on
7 June 30, 1996, may convert to a waiver service for a set period
8 of time such as five years. Following the set period of time,
9 the facility would be subject to the waiver requirements
10 applicable to services which were not operating under the
11 exception provisions.

12 b. In implementing the provisions of this subsection, the
13 mental health and disability services commission shall consult
14 with other states. The waiver revision request or other action
15 necessary to assist in the transition of service provision
16 from intermediate care facilities for persons with ~~mental~~
17 ~~retardation~~ an intellectual disability to alternative programs
18 shall be implemented by the department in a manner that can
19 appropriately meet the needs of individuals at an overall
20 lower cost to counties, the federal government, and the state.
21 In addition, the department shall take into consideration
22 significant federal changes to the medical assistance program
23 in formulating the department's actions under this subsection.
24 The department shall consult with the mental health and
25 disability services commission in adopting rules for oversight
26 of facilities converted pursuant to this subsection. A
27 transition approach described in paragraph "a" may be modified
28 as necessary to obtain federal waiver approval.

29 Sec. 102. Section 249A.12, subsection 6, paragraphs a and d,
30 Code 2011, are amended to read as follows:

31 a. The provisions of the home and community-based services
32 waiver for persons with an intellectual disabilities disability
33 shall include adult day care, prevocational, and transportation
34 services. Transportation shall be included as a separately
35 payable service.

1 *d.* The county of legal settlement shall pay for one hundred
2 percent of the nonfederal share of the costs of care provided
3 for adults which is reimbursed under a home and community-based
4 services waiver that would otherwise be approved for provision
5 in an intermediate care facility for persons with ~~mental~~
6 ~~retardation~~ an intellectual disability provided under the
7 medical assistance program.

8 Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011,
9 are amended to read as follows:

10 7. When paying the necessary and legal expenses for
11 intermediate care facility for persons with ~~mental-retardation~~
12 an intellectual disability services, the cost requirements of
13 section 222.60 shall be considered fulfilled when payment is
14 made in accordance with the medical assistance payment rates
15 established by the department for intermediate care facilities
16 for persons with ~~mental-retardation~~ an intellectual disability,
17 and the state or a county of legal settlement shall not be
18 obligated for any amount in excess of the rates.

19 8. If a person with ~~mental-retardation~~ an intellectual
20 disability has no legal settlement or the legal settlement is
21 unknown so that the person is deemed to be a state case and
22 services associated with the ~~mental-retardation~~ intellectual
23 disability can be covered under a medical assistance home and
24 community-based services waiver or other medical assistance
25 program provision, the nonfederal share of the medical
26 assistance program costs for such coverage shall be paid from
27 the appropriation made for the medical assistance program.

28 Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011,
29 are amended to read as follows:

30 1. The department may assess intermediate care facilities
31 for persons with ~~mental-retardation~~ an intellectual disability,
32 as defined in section 135C.1, a fee in an amount not to exceed
33 six percent of the total annual revenue of the facility for the
34 preceding fiscal year.

35 6. The department may adopt administrative rules under

1 section 17A.4, subsection 3, and section 17A.5, subsection 2,
2 paragraph "b", to implement this section, and any fee assessed
3 pursuant to this section against an intermediate care facility
4 for persons with ~~mental retardation~~ an intellectual disability
5 that is operated by the state may be made retroactive to
6 October 1, 2003.

7 Sec. 105. Section 249A.26, subsection 2, paragraph a, Code
8 2011, is amended to read as follows:

9 a. Except as provided for disallowed costs in section
10 249A.27, the county of legal settlement shall pay for fifty
11 percent of the nonfederal share of the cost and the state
12 shall have responsibility for the remaining fifty percent of
13 the nonfederal share of the cost of case management provided
14 to adults, day treatment, and partial hospitalization provided
15 under the medical assistance program for persons with ~~mental~~
16 ~~retardation~~ an intellectual disability, a developmental
17 disability, or chronic mental illness. For purposes of
18 this section, persons with mental disorders resulting from
19 Alzheimer's disease or substance abuse shall not be considered
20 chronically mentally ill. To the maximum extent allowed under
21 federal law and regulations, the department shall consult with
22 and inform a county of legal settlement's central point of
23 coordination process, as defined in section 331.440, regarding
24 the necessity for and the provision of any service for which
25 the county is required to provide reimbursement under this
26 subsection.

27 Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code
28 2011, are amended to read as follows:

29 3. To the maximum extent allowed under federal law and
30 regulations, a person with mental illness or ~~mental retardation~~
31 an intellectual disability shall not be eligible for any
32 service which is funded in whole or in part by a county share of
33 the nonfederal portion of medical assistance funds unless the
34 person is referred through the central point of coordination
35 process, as defined in section 331.440. However, to the

1 extent federal law allows referral of a medical assistance
2 recipient to a service without approval of the central point of
3 coordination process, the county of legal settlement shall be
4 billed for the nonfederal share of costs for any adult person
5 for whom the county would otherwise be responsible.

6 7. Unless a county has paid or is paying for the nonfederal
7 share of the costs of a person's home and community-based
8 waiver services or placement in an intermediate care
9 facility for persons with ~~mental retardation~~ an intellectual
10 disability under the county's mental health, ~~mental retardation~~
11 intellectual disability, and developmental disabilities
12 services fund, or unless a county of legal settlement would
13 become liable for the costs of services for a person at the
14 level of care provided in an intermediate care facility for
15 persons with ~~mental retardation~~ an intellectual disability due
16 to the person reaching the age of majority, the state shall pay
17 for the nonfederal share of the costs of an eligible person's
18 services under the home and community-based services waiver for
19 persons with brain injury.

20 9. Notwithstanding section 8.39, the department may
21 transfer funds appropriated for the medical assistance program
22 to a separate account established in the department's case
23 management unit in an amount necessary to pay for expenditures
24 required to provide case management for mental health,
25 ~~mental retardation~~ intellectual disability, and developmental
26 disabilities services under the medical assistance program
27 which are jointly funded by the state and county, pending final
28 settlement of the expenditures. Funds received by the case
29 management unit in settlement of the expenditures shall be used
30 to replace the transferred funds and are available for the
31 purposes for which the funds were originally appropriated.

32 Sec. 107. Section 249A.30A, Code Supplement 2011, is
33 amended to read as follows:

34 **249A.30A Medical assistance — personal needs allowance.**

35 The personal needs allowance under the medical assistance

1 program, which may be retained by a person who is a resident of
2 a nursing facility, an intermediate care facility for persons
3 with ~~mental retardation~~ an intellectual disability, or an
4 intermediate care facility for persons with mental illness, as
5 defined in section 135C.1, or a person who is a resident of
6 a psychiatric medical institution for children as defined in
7 section 135H.1, shall be fifty dollars per month. A resident
8 who has income of less than fifty dollars per month shall
9 receive a supplement from the state in the amount necessary to
10 receive a personal needs allowance of fifty dollars per month,
11 if funding is specifically appropriated for this purpose.

12 Sec. 108. Section 249A.31, subsection 1, Code 2011, is
13 amended to read as follows:

14 1. Providers of individual case management services for
15 persons with ~~mental retardation~~ an intellectual disability,
16 a developmental disability, or chronic mental illness shall
17 receive cost-based reimbursement for one hundred percent of
18 the reasonable costs for the provision of the services in
19 accordance with standards adopted by the mental health and
20 disability services commission pursuant to section 225C.6.

21 Sec. 109. Section 252.16, subsection 6, paragraph c, Code
22 2011, is amended to read as follows:

23 c. A blind person who is an inpatient or resident of, is
24 supported by, or is receiving treatment or support services
25 from a state resource center created under chapter 222, a
26 state mental health institute created under chapter 226, the
27 Iowa braille and sight saving school administered by the state
28 board of regents, or any community-based provider of treatment
29 or services for ~~mental retardation~~ intellectual disability,
30 developmental disabilities, mental health, or substance abuse,
31 does not acquire legal settlement in the county in which the
32 institution, facility, or provider is located, unless the blind
33 person has resided in the county in which the institution,
34 facility, or provider is located for a period of six months
35 prior to the date of commencement of receipt of assistance

1 under the laws of this state or for a period of six months
2 subsequent to the date of termination of assistance under the
3 laws of this state.

4 Sec. 110. Section 252.16, subsection 8, Code 2011, is
5 amended to read as follows:

6 8. A person receiving treatment or support services from
7 any provider, whether organized for pecuniary profit or not or
8 whether supported by charitable or public or private funds,
9 that provides treatment or services for ~~mental-retardation~~
10 intellectual disability, developmental disabilities, mental
11 health, brain injury, or substance abuse does not acquire legal
12 settlement in a county unless the person continuously resides
13 in that county for one year from the date of the last treatment
14 or support service received by the person.

15 Sec. 111. Section 262.70, Code 2011, is amended to read as
16 follows:

17 **262.70 Education, prevention, and research programs in mental**
18 **health and disability services.**

19 The division of mental health and disability services of
20 the department of human services may contract with the board
21 of regents or any institution under the board's jurisdiction
22 to establish and maintain programs of education, prevention,
23 and research in the fields of mental health, ~~mental-retardation~~
24 intellectual disability, developmental disabilities, and
25 brain injury. The board may delegate responsibility for these
26 programs to the state psychiatric hospital, the university
27 hospital, or any other appropriate entity under the board's
28 jurisdiction.

29 Sec. 112. Section 263.11, subsection 2, Code 2011, is
30 amended to read as follows:

31 2. Persons who are not eligible for admission to the schools
32 already established for persons with ~~mental-retardation~~ an
33 intellectual disability or epilepsy or persons who are deaf or
34 blind.

35 Sec. 113. Section 331.381, subsection 4, Code 2011, is

1 amended to read as follows:

2 4. Comply with chapter 222, including but not limited to
3 sections 222.13, 222.14, and 222.59 to 222.82, in regard to
4 the care of persons with ~~mental-retardation~~ an intellectual
5 disability.

6 Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code
7 Supplement 2011, are amended to read as follows:

8 1. For the purposes of this chapter, unless the context
9 otherwise requires, "*services fund*" means the county mental
10 health, ~~mental-retardation~~ intellectual disability, and
11 developmental disabilities services fund created in subsection
12 2. The county finance committee created in section 333A.2
13 shall consult with the state commission in adopting rules and
14 prescribing forms for administering the services fund.

15 2. For the fiscal year beginning July 1, 1996, and
16 succeeding fiscal years, county revenues from taxes and other
17 sources designated for mental health, ~~mental-retardation~~
18 intellectual disability, and developmental disabilities
19 services shall be credited to the mental health, ~~mental-~~
20 ~~retardation~~ intellectual disability, and developmental
21 disabilities services fund of the county. The board shall make
22 appropriations from the fund for payment of services provided
23 under the county management plan approved pursuant to section
24 331.439. The county may pay for the services in cooperation
25 with other counties by pooling appropriations from the fund
26 with other counties or through county regional entities
27 including but not limited to the county's mental health and
28 developmental disabilities regional planning council created
29 pursuant to section 225C.18.

30 5. Appropriations specifically authorized to be made from
31 the mental health, ~~mental-retardation~~ intellectual disability,
32 and developmental disabilities services fund shall not be made
33 from any other fund of the county.

34 Sec. 115. Section 331.432, subsection 3, Code Supplement
35 2011, is amended to read as follows:

1 3. Except as authorized in section 331.477, transfers of
2 moneys between the county mental health, ~~mental-retardation~~
3 intellectual disability, and developmental disabilities
4 services fund and any other fund are prohibited.

5 Sec. 116. Section 331.438, subsection 1, paragraphs a and b,
6 Code Supplement 2011, are amended to read as follows:

7 a. "*Base year expenditures*" means the amount selected by a
8 county and reported to the county finance committee pursuant
9 to this paragraph. The amount selected shall be equal to the
10 amount of net expenditures made by the county for qualified
11 mental health, ~~mental-retardation~~ intellectual disability, and
12 developmental disabilities services provided in one of the
13 following:

14 (1) The actual amount reported to the state on October 15,
15 1994, for the fiscal year beginning July 1, 1993.

16 (2) The net expenditure amount contained in the county's
17 final budget certified in accordance with chapter 24 for the
18 fiscal year beginning July 1, 1995, and reported to the county
19 finance committee.

20 b. "*Qualified mental health, ~~mental-retardation~~ intellectual*
21 *disability, and developmental disabilities services*" means the
22 services specified in the rules adopted by the state commission
23 for administering the services fund, pursuant to section
24 331.424A.

25 Sec. 117. Section 331.438, subsection 4, paragraph a, Code
26 Supplement 2011, is amended to read as follows:

27 a. The state commission shall make recommendations and take
28 actions for joint state and county planning, implementing,
29 and funding of mental health, ~~mental-retardation~~ intellectual
30 disability or other developmental disabilities, and brain
31 injury services, including but not limited to developing and
32 implementing fiscal and accountability controls, establishing
33 management plans, and ensuring that eligible persons have
34 access to appropriate and cost-effective services.

35 Sec. 118. Section 331.438, subsection 4, paragraph b,

1 subparagraph (6), Code Supplement 2011, is amended to read as
2 follows:

3 (6) Consider recommendations for measuring and improving
4 the quality of state and county mental health, ~~mental~~
5 ~~retardation~~ intellectual disability, and developmental
6 disabilities services and other support.

7 Sec. 119. Section 331.439, subsection 1, paragraphs a, b,
8 and f, Code Supplement 2011, are amended to read as follows:

9 a. The county accurately reported by December 1 the county's
10 expenditures for mental health, ~~mental-retardation~~ intellectual
11 disability, and developmental disabilities services and the
12 information required under section 225C.6A, subsection 3,
13 paragraph "c", for the previous fiscal year in accordance with
14 rules adopted by the state commission. If the department
15 determines good cause exists, the department may extend a
16 deadline otherwise imposed under this chapter, chapter 225C, or
17 chapter 426B for a county's reporting concerning mental health,
18 ~~mental-retardation~~ intellectual disability, or developmental
19 disabilities services or related revenues and expenditures.

20 b. The county developed and implemented a county management
21 plan for the county's mental health, ~~mental-retardation~~
22 intellectual disability, and developmental disabilities
23 services system in accordance with the provisions of this
24 paragraph "b". The plan shall comply with the administrative
25 rules adopted for this purpose by the state commission and is
26 subject to the approval of the director of human services in
27 consultation with the state commission. The plan shall include
28 a description of the county's service management provision for
29 mental health, ~~mental-retardation~~ intellectual disability, and
30 developmental disabilities services. For ~~mental-retardation~~
31 intellectual disability and developmental disabilities service
32 management, the plan shall describe the county's development
33 and implementation of a system of cost-effective individualized
34 services and shall comply with the provisions of paragraph
35 "f". The goal of this part of the plan shall be to assist

1 the individuals served to be as independent, productive,
2 and integrated into the community as possible. The service
3 management provisions for mental health shall comply with the
4 provisions of paragraph "e". A county is subject to all of the
5 following provisions in regard to the county's services system
6 management plan and planning process:

7 (1) The county shall have in effect an approved policies and
8 procedures manual for the county's services fund. The county
9 management plan shall be defined in the manual. The manual
10 submitted by the county as part of the county's management plan
11 for the fiscal year beginning July 1, 2000, as approved by the
12 director of human services, shall remain in effect, subject to
13 amendment. An amendment to the manual shall be submitted to
14 the department of human services at least forty-five days prior
15 to the date of implementation. Prior to implementation of any
16 amendment to the manual, the amendment must be approved by
17 the director of human services in consultation with the state
18 commission.

19 (2) For informational purposes, the county shall submit a
20 management plan review to the department of human services by
21 December 1 of each year. The annual review shall incorporate
22 an analysis of the data associated with the services system
23 managed during the preceding fiscal year by the county or by
24 a private entity on behalf of the county. The annual review
25 shall also identify measurable outcomes and results showing
26 the county's progress in fulfilling the purposes listed
27 in paragraph "c", and in achieving the disability services
28 outcomes and indicators identified by the commission pursuant
29 to section 225C.6.

30 (3) For informational purposes, every three years the
31 county shall submit to the department of human services
32 a three-year strategic plan. The strategic plan shall
33 describe how the county will proceed to attain the plan's
34 goals and objectives, and the measurable outcomes and results
35 necessary for moving the county's services system toward

1 an individualized, community-based focus in accordance
2 with paragraph "c". The three-year strategic plan shall be
3 submitted by April 1, 2000, and by April 1 of every third year
4 thereafter.

5 *f.* For ~~mental retardation~~ intellectual disability and
6 developmental disabilities services management, the county must
7 either develop and implement a system of care which addresses a
8 full array of appropriate services and cost-effective delivery
9 of services by contracting directly with service providers
10 or by contracting with a state-approved private entity to
11 manage the county services system. The county services system
12 shall incorporate a central point of coordination and clinical
13 assessment process developed in accordance with the provisions
14 of section 331.440. The elements of a county services system
15 shall be specified in rules developed by the department of
16 human services in consultation with and adopted by the state
17 commission.

18 Sec. 120. Section 331.439, subsection 3, paragraph a, Code
19 Supplement 2011, is amended to read as follows:

20 *a.* For the fiscal year beginning July 1, 1996, and
21 succeeding fiscal years, the county's mental health, ~~mental~~
22 ~~retardation~~ intellectual disability, and developmental
23 disabilities service expenditures for a fiscal year are limited
24 to a fixed budget amount. The fixed budget amount shall be
25 the amount identified in the county's management plan and
26 budget for the fiscal year. The county shall be authorized an
27 allowed growth factor adjustment as established by statute for
28 services paid from the county's services fund under section
29 331.424A which is in accordance with the county's management
30 plan and budget, implemented pursuant to this section. The
31 statute establishing the allowed growth factor adjustment shall
32 establish the adjustment for the fiscal year which commences
33 two years from the beginning date of the fiscal year in
34 progress at the time the statute is enacted.

35 Sec. 121. Section 331.439, subsection 6, Code Supplement

1 2011, is amended to read as follows:

2 6. The director's approval of a county's mental health,
3 ~~mental retardation~~ intellectual disability, and developmental
4 disabilities services management plan shall not be construed to
5 constitute certification of the county's budget.

6 Sec. 122. Section 331.440, subsection 1, paragraphs a and b,
7 Code Supplement 2011, are amended to read as follows:

8 a. For the purposes of this section, unless the context
9 otherwise requires, "*central point of coordination process*"
10 means a central point of coordination process established
11 by a county or consortium of counties for the delivery of
12 mental health, ~~mental retardation~~ intellectual disability, and
13 developmental disabilities services which are paid for in whole
14 or in part by county funds. The central point of coordination
15 process may include but is not limited to reviewing a person's
16 eligibility for services, determining the appropriateness of
17 the type, level, and duration of services, and performing
18 periodic review of the person's continuing eligibility and
19 need for services. Any recommendations developed concerning
20 a person's plan of services shall be consistent with the
21 person's unique strengths, circumstances, priorities, concerns,
22 abilities, and capabilities. For those services funded
23 under the medical assistance program, the central point of
24 coordination process shall be used to assure that the person
25 is aware of the appropriate service options available to the
26 person.

27 b. The central point of coordination process may include
28 a clinical assessment process to identify a person's service
29 needs and to make recommendations regarding the person's plan
30 for services. The clinical assessment process shall utilize
31 qualified mental health professionals and qualified ~~mental~~
32 ~~retardation~~ intellectual disability professionals.

33 Sec. 123. Section 331.440, subsection 2, paragraph d, Code
34 Supplement 2011, is amended to read as follows:

35 d. "*State case services and other support*" means the mental

1 health, ~~mental-retardation~~ intellectual disability, and
2 developmental disabilities services and other support paid for
3 under the rules and requirements in effect prior to October 1,
4 2006, from the annual appropriation made to the department of
5 human services for such services and other support provided
6 to persons who have no established county of legal settlement
7 or the legal settlement is unknown so that the person is
8 deemed to be a state case. Such services and other support do
9 not include medical assistance program services or services
10 provided in a state institution.

11 Sec. 124. Section 331.502, subsection 11, Code 2011, is
12 amended to read as follows:

13 11. Carry out duties relating to the determination of legal
14 settlement, collection of funds due the county, and support of
15 persons with ~~mental-retardation~~ an intellectual disability as
16 provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69,
17 and 222.74.

18 Sec. 125. Section 331.756, subsections 42 and 43, Code
19 Supplement 2011, are amended to read as follows:

20 42. Carry out duties relating to the commitment of a person
21 with ~~mental-retardation~~ an intellectual disability as provided
22 in section 222.18.

23 43. Proceed to collect, as requested by the county,
24 the reasonable costs for the care, treatment, training,
25 instruction, and support of a person with ~~mental-retardation~~
26 an intellectual disability from parents or other persons who
27 are legally liable for the support of the person with ~~mental~~
28 ~~retardation~~ an intellectual disability as provided in section
29 222.82.

30 Sec. 126. Section 335.25, subsection 2, paragraph b,
31 subparagraphs (1) and (2), Code 2011, are amended to read as
32 follows:

33 (1) Attributable to ~~mental-retardation~~ an intellectual
34 disability, cerebral palsy, epilepsy, or autism.

35 (2) Attributable to any other condition found to be closely

1 related to ~~mental retardation~~ an intellectual disability
2 because the condition results in impairment of general
3 intellectual functioning or adaptive behavior similar to that
4 of persons with ~~mental retardation~~ an intellectual disability
5 or requires treatment and services similar to those required
6 for the persons.

7 Sec. 127. Section 347.9A, subsection 3, Code 2011, is
8 amended to read as follows:

9 3. This section does not prohibit a licensed health
10 care practitioner from serving as a hospital trustee if the
11 practitioner's sole use of the county hospital is to provide
12 health care service to an individual with ~~mental retardation~~ an
13 intellectual disability as defined in section ~~222.2~~ 4.1.

14 Sec. 128. Section 414.22, subsection 2, paragraph b,
15 subparagraphs (1) and (2), Code 2011, are amended to read as
16 follows:

17 (1) Attributable to ~~mental retardation~~ an intellectual
18 disability, cerebral palsy, epilepsy, or autism.

19 (2) Attributable to any other condition found to be closely
20 related to ~~mental retardation~~ an intellectual disability
21 because the condition results in impairment of general
22 intellectual functioning or adaptive behavior similar to that
23 of persons with ~~mental retardation~~ an intellectual disability
24 or requires treatment and services similar to those required
25 for the persons.

26 Sec. 129. Section 422.7, subsection 12, paragraph c,
27 subparagraph (1), Code Supplement 2011, is amended to read as
28 follows:

29 (1) "*Physical or mental impairment*" means any physiological
30 disorder or condition, cosmetic disfigurement, or anatomical
31 loss affecting one or more of the body systems or any mental
32 or psychological disorder, including ~~mental retardation~~
33 intellectual disability, organic brain syndrome, emotional or
34 mental illness and specific learning disabilities.

35 Sec. 130. Section 422.35, subsection 6, paragraph c,

1 subparagraph (1), Code Supplement 2011, is amended to read as
2 follows:

3 (1) "*Physical or mental impairment*" means any physiological
4 disorder or condition, cosmetic disfigurement, or anatomical
5 loss affecting one or more of the body systems or any mental
6 or psychological disorder, including ~~mental retardation~~
7 intellectual disability, organic brain syndrome, emotional or
8 mental illness, and specific learning disabilities.

9 Sec. 131. Section 423.3, subsection 18, paragraphs a and c,
10 Code Supplement 2011, are amended to read as follows:

11 a. Residential care facilities and intermediate care
12 facilities for persons with ~~mental retardation~~ an intellectual
13 disability and residential care facilities for persons with
14 mental illness licensed by the department of inspections and
15 appeals under chapter 135C.

16 c. Rehabilitation facilities that provide accredited
17 rehabilitation services to persons with disabilities which are
18 accredited by the commission on accreditation of rehabilitation
19 facilities or the accreditation council for services for
20 persons with ~~mental retardation~~ an intellectual disability
21 and other persons with developmental disabilities and adult
22 day care services approved for reimbursement by the state
23 department of human services.

24 Sec. 132. Section 426B.2, subsection 3, paragraph b, Code
25 2011, is amended to read as follows:

26 b. Any replacement generation tax in the property tax relief
27 fund as of May 1 shall be paid to the county treasurers in July
28 and January of the fiscal year beginning the following July 1.
29 The department of management shall determine the amount each
30 county will be paid pursuant to this lettered paragraph for
31 the following fiscal year. The department shall reduce by the
32 determined amount the amount of each county's certified budget
33 to be raised by property tax for that fiscal year which is to
34 be expended for mental health, ~~mental retardation~~ intellectual
35 disability, and developmental disabilities services and

1 shall revise the rate of taxation as necessary to raise the
2 reduced amount. The department of management shall report
3 the reduction in the certified budget and the revised rate of
4 taxation to the county auditors by June 15.

5 Sec. 133. Section 426B.3, subsection 1, Code 2011, is
6 amended to read as follows:

7 1. The county auditor shall reduce the certified budget
8 amount received from the board of supervisors for the
9 succeeding fiscal year for the county mental health, ~~mental~~
10 ~~retardation~~ intellectual disability, and developmental
11 disabilities services fund created in section 331.424A by an
12 amount equal to the amount the county will receive from the
13 property tax relief fund pursuant to section 426B.2, for the
14 succeeding fiscal year and the auditor shall determine the rate
15 of taxation necessary to raise the reduced amount. On the tax
16 list, the county auditor shall compute the amount of taxes due
17 and payable on each parcel before and after the amount received
18 from the property tax relief fund is used to reduce the county
19 budget. The director of human services shall notify the county
20 auditor of each county of the amount of moneys the county will
21 receive from the property tax relief fund pursuant to section
22 426B.2, for the succeeding fiscal year.

23 Sec. 134. Section 426B.5, subsection 1, paragraph d,
24 subparagraph (1), subparagraph divisions (a) and (b), Code
25 Supplement 2011, are amended to read as follows:

26 (a) The county is levying the maximum amount allowed for
27 the county's mental health, ~~mental-retardation~~ intellectual
28 disability, and developmental disabilities services fund under
29 section 331.424A for the fiscal year in which the funding is
30 distributed.

31 (b) In the latest fiscal year reported in accordance with
32 section 331.403, the county's mental health, ~~mental-retardation~~
33 intellectual disability, and developmental disabilities
34 services fund ending balance under generally accepted
35 accounting principles was equal to or less than twenty-five

1 percent of the county's actual gross expenditures for that
2 fiscal year.

3 Sec. 135. Section 426B.5, subsection 2, paragraph a, Code
4 Supplement 2011, is amended to read as follows:

5 a. For the purposes of this subsection, unless the context
6 otherwise requires, "*services fund*" means a county's mental
7 health, ~~mental-retardation~~ intellectual disability, and
8 developmental disabilities services fund created in section
9 331.424A.

10 Sec. 136. Section 514E.7, subsection 2, paragraph a,
11 subparagraph (1), Code 2011, is amended to read as follows:

12 (1) Incapable of self-sustaining employment by reason
13 of ~~mental-retardation~~ an intellectual disability or physical
14 disability.

15 Sec. 137. Section 602.8102, subsections 36 and 37, Code
16 2011, are amended to read as follows:

17 36. Carry out duties relating to the commitment of a person
18 with ~~mental-retardation~~ an intellectual disability as provided
19 in sections 222.37 through 222.40.

20 37. Keep a separate docket of proceedings of cases relating
21 to persons with ~~mental-retardation~~ an intellectual disability
22 as provided in section 222.57.

23 Sec. 138. Section 633.556, subsection 1, Code 2011, is
24 amended to read as follows:

25 1. If the allegations of the petition as to the status of
26 the proposed ward and the necessity for the appointment of
27 a guardian are proved by clear and convincing evidence, the
28 court may appoint a guardian. If the court appoints a guardian
29 based upon mental incapacity of the proposed ward because
30 the proposed ward is a person ~~described in section 222.2,~~
31 ~~subsection 5~~ with an intellectual disability, as defined in
32 section 4.1, the court shall make a separate determination as
33 to the ward's competency to vote. The court shall find a ward
34 incompetent to vote only upon determining that the person lacks
35 sufficient mental capacity to comprehend and exercise the right

1 to vote.

2 Sec. 139. Section 633C.1, subsection 4, Code 2011, is
3 amended to read as follows:

4 4. "*Maximum monthly medical assistance payment rate for*
5 *services in an intermediate care facility for persons with mental*
6 *retardation an intellectual disability*" means the allowable
7 rate established by the department of human services and as
8 published in the Iowa administrative bulletin.

9 Sec. 140. Section 633C.3, subsection 3, paragraph a, Code
10 2011, is amended to read as follows:

11 a. For a beneficiary who meets the medical assistance level
12 of care requirements for services in an intermediate care
13 facility for persons with ~~mental retardation~~ an intellectual
14 disability and who either resides in an intermediate care
15 facility for persons with ~~mental retardation~~ an intellectual
16 disability or is eligible for services under the medical
17 assistance home and community-based services waiver except
18 that the beneficiary's income exceeds the allowable maximum,
19 the applicable rate is the maximum monthly medical assistance
20 payment rate for services in an intermediate care facility for
21 persons with ~~mental retardation~~ an intellectual disability.

22 Sec. 141. Section 904.108, subsection 1, paragraph d, Code
23 2011, is amended to read as follows:

24 d. Establish and maintain acceptable standards of treatment,
25 training, education, and rehabilitation in the various
26 state penal and corrective institutions which shall include
27 habilitative services and treatment for offenders with ~~mental~~
28 ~~retardation~~ an intellectual disability. For the purposes of
29 this paragraph, "*habilitative services and treatment*" means
30 medical, mental health, social, educational, counseling,
31 and other services which will assist a person with ~~mental~~
32 ~~retardation~~ an intellectual disability to become self-reliant.
33 However, the director may also provide rehabilitative treatment
34 and services to other persons who require the services.
35 The director shall identify all individuals entering the

1 correctional system who are persons with ~~mental retardation~~
2 an intellectual disability, as defined in section ~~222.2,~~
3 ~~subsection 5~~ 4.1. Identification shall be made by a qualified
4 professional in the area of ~~mental retardation~~ intellectual
5 disability. In assigning an offender with ~~mental retardation~~
6 an intellectual disability, or an offender with an inadequately
7 developed intelligence or with impaired mental abilities, to
8 a correctional facility, the director shall consider both the
9 program needs and the security needs of the offender. The
10 director shall consult with the department of human services
11 in providing habilitative services and treatment to offenders
12 with mental illness or ~~mental retardation~~ an intellectual
13 disability. The director may enter into agreements with
14 the department of human services to utilize mental health
15 institutions and share staff and resources for purposes of
16 providing habilitative services and treatment, as well as
17 providing other special needs programming. Any agreement to
18 utilize mental health institutions and to share staff and
19 resources shall provide that the costs of the habilitative
20 services and treatment shall be paid from state funds. Not
21 later than twenty days prior to entering into any agreement
22 to utilize mental health institution staff and resources,
23 other than the use of a building or facility, for purposes of
24 providing habilitative services and treatment, as well as other
25 special needs programming, the directors of the departments
26 of corrections and human services shall each notify the
27 chairpersons and ranking members of the joint appropriations
28 subcommittees that last handled the appropriation for their
29 respective departments of the pending agreement. Use of a
30 building or facility shall require approval of the general
31 assembly if the general assembly is in session or, if the
32 general assembly is not in session, the legislative council
33 may grant temporary authority, which shall be subject to final
34 approval of the general assembly during the next succeeding
35 legislative session.

1 Sec. 142. Section 904.205, Code 2011, is amended to read as
2 follows:

3 **904.205 Clarinda correctional facility.**

4 The state correctional facility at Clarinda shall be
5 utilized as a secure men's correctional facility primarily
6 for offenders with chemical dependence, ~~mental-retardation~~ an
7 intellectual disability, or mental illness.

8 Sec. 143. Section 915.38, subsections 1 and 2, Code 2011,
9 are amended to read as follows:

10 1. Upon its own motion or upon motion of any party, a court
11 may protect a minor, as defined in section 599.1, from trauma
12 caused by testifying in the physical presence of the defendant
13 where it would impair the minor's ability to communicate, by
14 ordering that the testimony of the minor be taken in a room
15 other than the courtroom and be televised by closed-circuit
16 equipment for viewing in the courtroom. However, such an order
17 shall be entered only upon a specific finding by the court that
18 such measures are necessary to protect the minor from trauma.
19 Only the judge, prosecuting attorney, defendant's attorney,
20 persons necessary to operate the equipment, and any person
21 whose presence, in the opinion of the court, would contribute
22 to the welfare and well-being of the minor may be present in
23 the room with the minor during the minor's testimony. The
24 judge shall inform the minor that the defendant will not be
25 present in the room in which the minor will be testifying
26 but that the defendant will be viewing the minor's testimony
27 through closed-circuit television.

28 During the minor's testimony the defendant shall remain in
29 the courtroom and shall be allowed to communicate with the
30 defendant's counsel in the room where the minor is testifying
31 by an appropriate electronic method.

32 In addition, upon a finding of necessity, the court may
33 allow the testimony of a victim or witness with a mental
34 illness, ~~mental-retardation~~ an intellectual disability, or
35 other developmental disability to be taken as provided in this

1 subsection, regardless of the age of the victim or witness.
2 2. The court may, upon its own motion or upon motion of
3 a party, order that the testimony of a minor, as defined in
4 section 599.1, be taken by recorded deposition for use at
5 trial, pursuant to rule of criminal procedure 2.13(2)(b).
6 In addition to requiring that such testimony be recorded by
7 stenographic means, the court may on motion and hearing, and
8 upon a finding that the minor is unavailable as provided
9 in rule of evidence 5.804(a), order the videotaping of the
10 minor's testimony for viewing in the courtroom by the court.
11 The videotaping shall comply with the provisions of rule
12 of criminal procedure 2.13(2)(b), and shall be admissible
13 as evidence in the trial. In addition, upon a finding of
14 necessity, the court may allow the testimony of a victim
15 or witness with a mental illness, ~~mental retardation~~ an
16 intellectual disability, or other developmental disability to
17 be taken as provided in this subsection, regardless of the age
18 of the victim or witness.

19 EXPLANATION

20 This bill replaces the terms "mental retardation" and
21 "mentally retarded" with the term "intellectual disability"
22 throughout the Iowa Code.

23 The bill defines "intellectual disability" for the entire
24 Iowa Code as a disability of children and adults who as
25 a result of inadequately developed intelligence have a
26 significant impairment in ability to learn or to adapt to
27 the demands of society. This is the current definition of
28 "mental retardation" in Code chapter 222. The bill also
29 provides for the entire Iowa Code that if a diagnosis is
30 required, "intellectual disability" means a diagnosis of mental
31 retardation as defined in the diagnostic and statistical manual
32 of mental disorders, fourth edition, text revised, published by
33 the American psychiatric association. This language currently
34 exists in Code section 222.60.